December 31, 1997

D.P.U./D.T.E. 97-65

Investigation by the Department of Telecommunications and Energy on its own motion to develop Model Terms and Conditions governing the relationship between distribution companies and customers (for the provision of distribution service, standard offer generation service, and default generation service) and governing the relationship between distribution companies and competitive suppliers.

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I. INTRODUCTION

A. General

On June 13, 1997, the Department of Telecommunications and Energy ("Department") instituted a Notice of Inquiry ("NOI") to develop Model Terms and Conditions governing the relationship between distribution companies and customers (for the provision of distribution service, standard offer generation service, and default generation service) and governing the relationship between distribution companies and competitive suppliers. The proceeding was docketed as D.P.U. 97-65. The NOI contained proposed Model Terms and Conditions and briefing questions. Initial comments ("Comments") were received on July 11, 1997. The Department held six days of hearings during the weeks of July 28 and August 4, 1997, with panels of commenters discussing various issues.[1] The Department issued post-hearing briefing questions and received reply comments ("Reply Comments") on August 22, 1997.[2]

The following entities submitted comments and/or participated in the hearings: AKL Services ("AKL"); ALLEnergy Marketing Company ("AllEnergy"); Alternate Power Source, Inc. ("APS"); Applied Resources Group, Inc. ("ARG"); Attorney General of the Commonwealth ("Attorney General"); Barnstable County Commissioners ("Barnstable");

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[1] The panel topics included the relationship between the Department's Terms and Conditions and the Restructured NEPOOL Arrangements (transmission service, line losses, load-serving entities, and firm, all-requirements service); switching customers, signing up customers and release of customer information; determination of hourly load/load profiles; electronic transfer of billing information; billing; fees; standard offer and default service (including default service pricing); metering; and aggregators.

[2] In addition, a technical session on load profiles was held at the Department's offices on October 8, 1997.

Boston Edison Company ("BECo"), Cambridge Electric Light Company and Commonwealth Electric Company ("COMElec"), Eastern Edison Company ("EECo"), Fitchburg Gas & Electric Light Company ("Fitchburg"),[3] Massachusetts Electric Company ("MECo"), and Western Massachusetts Company ("WMECo") (collectively "Utility Companies"); Cape & Islands Self-Reliance Corporation ("Cape & Islands"); Cellnet Data Systems, Inc. ("Cellnet"); Commonwealth of Massachusetts Division of Energy Resources ("DOER"); Coneco ("Coneco"); EnergyEXPRESS ("EnergyEXPRESS"); EnergyVision ("EnergyVision"); Enron Capital & Trade Resources, Inc. ("Enron"); Evergreen Solar ("Evergreen Solar"); Green Mountain Power Corporation ("Green Mountain Power"); Intelligen Energy Systems, Inc. ("Intelligen"); Itron, Inc. ("Itron"); Low-income Intervenors ("LII"); Massachusetts Alliance of Utility Unions ("MAUU"); New Energy Ventures-New England ("NEV-NE"); TelEnergy; Western Massachusetts Electric Company Industrial Customers Group ("WMECo-ICG"); Wyman-Gordon Company ("Wyman-Gordon"); and Xenergy, Inc.("Xenergy").

The Department stated that this proceeding to establish Model Terms and Conditions would (1) allow a single forum for addressing terms and conditions that would govern the relationships in question, (2) provide companies and others with an effective vehicle for presenting consensus proposals, (3) minimize inconsistencies that may arise in individual company adjudications of terms and conditions, and (4) ensure that customers in Massachusetts enjoy terms and conditions that are, to the maximum extent possible, similar across distribution

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[3] Fitchburg filed separate Comments but joined with the Utility Companies' Reply Comments.

companies. NOI at 2-3. The Department further explained that we anticipated that this proceeding would allow the Department to respond readily to any statutory requirements from the Legislature. Id. at 3. On November 25, 1997, an Act Relative to Restructuring the Electric Utility Industry in the Commonwealth, Regulating the Provisions of Electricity and Other Services, and Promoting Enhanced Consumer Protections Therein, Chapter 164 of the Acts of 1997 ("Restructuring Act"), was enacted. This Order and the Model Terms and Conditions reflect the legislative requirements of the Restructuring Act. The Department will address implementation of the Act and will develop rules to that end in our ongoing rulemaking proceeding, docket D.P.U. 96-100.

As we stated previously, the purpose of this proceeding is to develop Model Terms and Conditions that will serve as the basis for the terms and conditions that will be submitted by each distribution company for Department review and approval. Id. at 2. While a distribution company may propose terms and conditions that vary from the Model Terms and Conditions to accommodate company-specific circumstances, the company must make a strong showing of the reasonableness of proposed variations with its submittals. Id. The goal is uniformity. Departure from that goal may be warranted only by compelling circumstances that a distribution company demonstrates are peculiar to it.

Each distribution company must file its proposed terms and conditions by January 16, 1997. Alternatively, a distribution company may choose as an interim measure to file the Model Terms and Conditions in lieu of a company-specific filing. Such a filing would include the Department's Model Terms and Conditions, as well as the distribution company's existing

line extension policy, liability provisions and fees for existing services. In such a case, the distribution company will be permitted to file any company-specific terms and conditions for approval by the Department at a later date.

B. Electronic Business Transaction Standards Working Group

Commenters raised the idea of forming an Electronic Business Transaction Standards Working Group ("Working Group") during the course of hearings conducted in this proceeding (Tr. 3, at 78-81). The objective of the Working Group was to develop standard transactions and formats for electronic transfer of customer information between distribution companies and competitive suppliers (id.). On August 8, 1997, a "Proposal for the Establishment of a Working Group on the Electronic Transfer of Customer Information" was submitted to the Department. In an August 22, 1997 letter, the Department endorsed the formation of the Working Group.

The Working Group[4] submitted its report ("Working Group Report" or "Report") to the Department on October 9, 1997. The Report includes proposals related to the following three areas:

> (1) The business transactions that will take place between distribution companies and competitive suppliers in order to accommodate retail choice, and the rules that will govern those transactions (see Section II.I, below);
>
> (2) Technical issues associated with (i) formatting data to be included in the business transactions, (ii) the method by which the transactions will be transmitted, and (iii) computer operations (see Section II.M, below); and

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[4] The following entities participated in the Working Group: the seven investor-owned Massachusetts electric companies, AllEnergy, EnergyEXPRESS, Green Mountain Power, NEV-NE, and Select Energy (Working Group Report Cover Letter).

(3) Training and testing requirements that would apply to competitive suppliers that seek to register in the state of Massachusetts (see Section II.F, below).

The Report states that the Working Group accomplished its objective of developing practical and operational electronic standards for the transaction of business between distribution companies and competitive suppliers (Report at 2). The Report recommends that the Working Group continue to meet after the retail access date[5] "to ensure the prompt and efficient resolution of issues which are certain to arise during the implementation stage of these new proposals" (id.). In particular, continuation of the Working Group would allow it to (1) complete work on some of the proposals included in the Report, (2) resolve certain issues that were not included in the Report, and (3) observe, and possibly adopt, standards and technologies that are being adopted in other parts of the country (id. at 27). Finally, the Working Group recommends that the proposals included in the Report not "be incorporated in or become part of the final Terms and Conditions promulgated by the Department. Although the proposal[s] might be referenced, where necessary or appropriate, the detailed operational issues addressed in the proposal are and will continue to be subject to rapid change, especially during the early stages of retail access . . ." (Cover Letter at 2).

The Department recognizes that some of the proposals accepted by the Department in this Order will need to be revised as more experience is gained with retail access. As such, the Department endorses the recommendation of the Report that the Working Group continue to meet.

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[5] The Restructuring Act sets March 1, 1997 as the retail access date. St. 1997, c. 164, § 193 (G.L. c. 164, § 1A(a)).

As discussed in Sections II.F, II.I, and II.M, below, the Department accepts the majority of the recommendations included in the Report. Some of the recommendations (those associated with the business transactions and training and testing requirements) are incorporated directly into the Model Terms and Conditions for Competitive Suppliers, while other proposals (those associated with technical issues such as data formats, electronic transmission, and computer operations) are not incorporated into the Model Terms and Conditions. As discussed in Section II.M, below, the Department invites the Working Group to submit proposed revisions associated with these technical issues for Department review.

Below, we discuss the substantive changes made to the Model Terms and Conditions proposed in the NOI. We begin with the relationship between distribution companies and suppliers, followed by standard offer service, default service and distribution service. The actual Model Terms and Conditions are attached to the Order (Att. I (Distribution Service); Att. II (Competitive Suppliers); Att. III (Standard Service); and Att. IV (Default Service)).

II. MODEL TERMS AND CONDITIONS FOR COMPETITIVE SUPPLIERS

A. Introduction

This section addresses specific issues related to the relationship between distribution companies and competitive suppliers as set forth in the NOI at Att. II. Our discussion focuses on substantive rather than merely organizational changes to the Model Terms and Conditions proposed in the NOI.[6] The Department addresses the following issues: (1) firm, all-

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[6] For example, the proposed Model Terms and Conditions included a section entitled "Generation Requirements." The Department deleted this section because its provisions (continued…)

requirements service; (2) line losses; (3) application for distribution service/competitive supplier as customer of record; (4) aggregators; (5) testing and training of competitive suppliers; (6) customer authorization (release of customer historic usage information; commencement of generation service); (7) customer information to be available to competitive suppliers; (8) initiation and termination of generation service; (9) billing (third billing option, partial payment, customer services, summary billing, bill format); (10) metering; (11) determination of hourly loads; (12) electronic data transfer; (13) fees; and (14) liability.

B. Firm, All-Requirements Service

1. Proposed Model Terms and Conditions

The Department's NOI stated that a customer will select one competitive supplier at any given time and that competitive suppliers shall be responsible for providing firm, all-requirements service to meet each of their customer's needs. NOI at Att. II, §§ 3.A, 3.C.1.

2. Summary of Comments

The comments were divided on the issue of requiring a competitive supplier to provide all-requirements service to each of its customers. Supporters of all-requirements service stated that one supplier should be responsible at the system-operator level for all load registered on a single meter and that an all-requirements provision would not preclude multiple suppliers from entering into agreements with a customer to serve different portions of the metered load, as long as one supplier was responsible for the total load at the system operator level (AKL

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[6](…continued)
are included elsewhere in the revised Model Terms and Conditions. The Department deems this an organizational change that does not warrant discussion.

Comments at 2; AllEnergy Comments at 2; EnergyEXPRESS Comments at 9; Utility Companies Comments at 16, Reply Comments at 7). The Utility Companies asserted that designating multiple suppliers for one meter (1) would introduce additional complexity into the transaction requirements, (2) could impair the accuracy of the load estimation process, (3) would increase costs of the transactions, and (4) is not available from an administrative and billing perspective in the NEPOOL structure at this time (Utility Companies Comments at 30). EnergyEXPRESS added that, although it is contractually feasible for multiple suppliers to serve a single meter, it would be an administrative nightmare (EnergyEXPRESS Comments at 9).

Those commenters that opposed the all-requirements provision stated that there is no reason to limit a customer to one supplier at any given time (Coneco Comments at 2; DOER Comments at 18-19; Enron Comments at 26-27; WMECo-ICG Comments at 3; Xenergy Comments at 8). Enron argued that an arbitrary limitation on the number of suppliers per customer can only impede meaningful choice and the full range of service benefits which competition has to offer (Enron Comments at 26-27).

With regard to the provision of firm service, all but one of the commenters that addressed this issue recommended that reference to firm service not be included in the Model Terms and Conditions, stating that the competitive market may offer services that do not fit this requirement (Coneco Comments at 2; DOER Comments at 18; Enron Reply Comments at 7-8; Utility Companies Comments at 18-19; WMECo-ICG Comments at 3; Xenergy Comments at 8). WMECo-ICG added that suppliers will be offering customers firm or interruptible pricing, rather than firm or interruptible physical power (WMECo-ICG Comments at 3). Only

EnergyEXPRESS supported the concept of firm service, stating that this type of service is consistent with services that will be provided in the competitive market (EnergyEXPRESS Comments at 9).

3. Analysis

In this section, the Department addresses whether competitive suppliers should be required to provide firm, all-requirements service to each of their customers. The Department addresses all-requirements service first.

In assessing whether competitive suppliers should be required to provide all-requirements service to their customers, it is important to understand the implications of such a provision. First, a competitive supplier would be responsible, at the Independent System Operator - New England ("ISO-NE") level, for the total load of each of its customers. That is, a distribution company, in reporting loads to the ISO-NE, would assign a customer's total load to the customer's supplier. Second, the distribution company would provide billing services to only one competitive supplier per customer account. The Department agrees with those commenters that stated that an all-requirements provision would not preclude a customer from entering into an arrangement with suppliers whereby the customer's load is met by multiple suppliers. The customer would be required, however, to designate one supplier for purposes of reporting load to ISO-NE and billing.

The Department notes that, in the majority of cases, a customer account includes a single meter. In these instances, the Department concludes that it is appropriate to apply an all-requirements provision. That is, it is appropriate to require that one supplier be responsible

for the total load read off a single meter. To allow more than one supplier to serve a single meter would require the distribution company or some other entity to develop a method for dividing the metered load among the various suppliers. As stated by the Utility Companies, this would introduce added complexity into a distribution company's load reporting and billing activities, and would increase the uncertainty associated with customers' hourly load estimates. The Department concludes that the negative implications of the increased complexity and uncertainty outweigh any benefits that might result from allowing multiple suppliers to serve a single meter. Therefore, the Model Terms and Conditions for Competitive Suppliers (Att. II) require that one supplier be responsible for the total usage read off a single meter.

In those instances in which a customer account includes more than one meter, allowing multiple suppliers to serve the customer would have no bearing on the hourly load estimation process, as long as the usage read off each meter is assigned to a single supplier (this is because each supplier's assigned load would be based on actual meter reads). However, for the following reasons, the Department concludes that it is appropriate to retain the all-requirements provision for these customers. First, the transactions proposed in the Working Group Report, which was endorsed by both distribution companies and competitive suppliers, incorporate an all-requirements provision (see Section II.I, below). That is, the transactions require that a single supplier assume responsibility for all load associated with a single customer account -- there is no provision for dividing a customer's load among different suppliers, even if the customer's account includes more than one meter. Second, an all-requirements provision would reduce the complexity associated with a distribution company's load reporting and billing

activities. The Department considers this to be particularly important during the early stages of retail access, when distribution companies will be required to perform a variety of new functions.[7] Accordingly, the Model Terms and Conditions for Competitive Suppliers include the all-requirements provision for all customer accounts.

With regard to the requirement that competitive suppliers provide firm power to their customers, the Department concludes that it would be inappropriate to include such a requirement in the Model Terms and Conditions for Competitive Suppliers. As stated by many commenters, competitive suppliers may develop and offer services to customers that may be inconsistent with a firm power requirement. For example, suppliers may offer interruptible-type service to customers whereby the supplier would have the ability to control a customer's consumption remotely, so that consumption could be responsive to price signals.[8] The Department's Model Terms and Conditions will not preclude such arrangements.

C. Line Losses

1. Proposed Model Terms and Conditions

The NOI at Att. II, § 6C stated that distribution companies shall be responsible for supplying power to compensate for all transmission and distribution system losses required to

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7 It is important to note that having multiple suppliers serve one customer with multiple meters is technically feasible in terms of the distribution companies' and ISO-NE's load reporting procedures. As such, the Department may revisit this issue at a future date if the all-requirements provision inhibits the development of a healthy competitive generation market.

8 The Department notes that this type of interruptible service currently is offered by electric companies, primarily associated with customers' electric water heating consumption.

meet the load requirements of each customer.

2. Summary of Comments

There was general consensus that competitive suppliers, not distribution companies, should be responsible for line losses (AllEnergy Reply Comments at 3; DOER Comments at 24; EnergyEXPRESS Comments at 12; Enron Reply Comments at 7; Utility Companies Reply Comments at 5;). The Utility Companies and DOER asserted that, if distribution companies were made responsible, they essentially would be forced to remain in the supply business (DOER Comments at 24, Reply Comments at 19; Utility Companies Comments at 33). DOER added that such a responsibility would be inconsistent with the new NEPOOL Agreement, which holds suppliers responsible for losses (DOER Comments at 24). Coneco stated that distribution companies should be responsible for non-technical losses, which it defines as those losses that result from inaccurate metering of consumption and theft of power (Coneco Comments at 3). Green Mountain Power, Wyman-Gordon, and WMECo-ICG stated that the Department must ensure that costs associated with line losses are not included in distribution companies' base rates; otherwise, customers will be charged twice for these losses (Green Mountain Power Reply Comments at 5; WMECo-ICG Comments at 4-5, Reply Comments at 5-7; Wyman-Gordon Comments at 4-5).

3. Analysis

First, it is important to clarify that the line losses discussed here occur on distribution

lines and local transmission lines.[9] If distribution companies were responsible for losses that occur on distribution and local transmission lines, then they would, in effect, become competitive suppliers responsible at the ISO-NE level for that portion of their distribution customers' loads. That outcome would not be consistent with the intent and objectives of the Department's restructuring efforts. Therefore, the Department concludes that the Model Terms and Conditions should provide that competitive suppliers will be responsible for these line losses. The Department notes that the assignment of distribution and local transmission line losses to competitive suppliers is consistent with the way that regional transmission lines losses are assigned by the ISO-NE. Thus, competitive suppliers will be responsible for all line losses associated with providing generation service to customers.

The Department agrees with Coneco that it may be appropriate to allocate non-technical line losses differently than technical losses. However, there is not sufficient information on the record in this proceeding to develop the different allocation methods. Therefore, all line losses will be allocated to competitive suppliers. The Department may pursue this issue at a later date. Finally, the Department emphasizes that costs associated with line losses are generation-related; as such, these costs will not be included in distribution companies' base rates.

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[9] Losses that occur on regional transmission lines (i.e., pool transmission facilities) will be assigned to competitive suppliers by the ISO-NE.

D. Application for Distribution Service/Competitive Supplier as Customer of Record

1. Proposed Model Terms and Conditions

The NOI at Att. I, § 2B stated that distribution companies shall accept applications for distribution service from prospective customers. The NOI made no provision for a competitive supplier applying for distribution service on a customer's behalf, nor for being the customer of record on behalf of a customer.

2. Summary of Comments

Several commenters stated that, with the appropriate customer authorization, a competitive supplier should be allowed to arrange and apply for distribution service on a customer's behalf (AKL Comments at 1; AllEnergy Comments at 1; DOER Comments at 7, Reply Comments at 22; Enron Comments at 5, 8-9; Green Mountain Power Comments at 7; NEV-NE Comments at 5). Enron stated that, if competitive suppliers were unable to initiate distribution service for one of their customers, the suppliers' ability to offer a bundled, comprehensive package of services would be seriously inhibited (Tr. 2, at 103). Enron added that the Department should be indifferent to who initiates distribution service for a customer (Enron Reply Comments at 17).

The Utility Companies stated that, because the commencement of distribution service to a new customer is a bilateral arrangement between the customer and the distribution company, there is no persuasive rationale for allowing a competitive supplier to be involved in

establishing that relationship. The Utility Companies cited their previous experience with name fraud as another reason for precluding competitive suppliers from applying for distribution service (Utility Companies Comments at 24, Reply Comments at 10, n.6).

Enron and NEV-NE argued that, in addition to applying for distribution service on a customer's behalf, a competitive supplier should be able to act as customer of record on behalf of one of its customers (Enron Comments at 5, Tr. 2 at 105; NEV-NE Comments at 5). Enron argued that, at a minimum, a customer should be allowed to designate a competitive supplier as the agent for purposes of receiving the customer's bill (Enron Reply Comments at 17). AllEnergy stated that, for safety reasons and information and notification requirements, the customer of record should be the customer receiving distribution and supply service at the service location. However, AllEnergy contended that a customer should be able to designate a supplier to be the agent to receive bills and to act as the contact for the customer regarding delivery service and billing (AllEnergy Reply Comments at 5).

The Attorney General, DOER, and the Utility Companies stated that competitive suppliers should not be allowed to act as customers of record on behalf of their customers (Attorney General, Tr. 2, at 110-112; DOER Reply Comments at 22; Utility Companies Reply Comments at 8-9). These commenters asserted that allowing competitive suppliers to become customers of record would (1) disrupt customers' access to services provided by the traditionally regulated distribution company, and (2) inhibit the ability of customers to switch generation suppliers (id.). The Utility Companies added that allowing a competitive supplier to become the customer of record would (1) raise serious safety and reliability concerns associated

with restoration of service after outages and identification of vulnerable customers during times of service curtailment, and (2) create additional problems associated with termination of service, provision of low-income discounts, and switching competitive suppliers (Utility Companies Reply Comments at 8-9).

3. Analysis

The Department rejects the proposals made by some commenters that competitive suppliers be able to, on behalf of their customers, either apply for distribution service, or be customers of record. Under the provisions of the Restructuring Act, distribution franchises remain intact until further action by the Legislature. St. 1997, c.164, § 193 (G.L. c.164, § 1B). Thus, although a customer may switch competitive suppliers at any time, the customer will retain a continuing relationship with the distribution company. The Department believes that this continuing relationship will act as a stabilizing force for customers, especially during the initial years of retail access. With respect to allowing competitive suppliers to apply for distribution service on behalf of customers, the Department agrees with the Utility Companies that there is no persuasive rationale for allowing competitive suppliers to be involved in establishing the relationship between customers and their distribution companies. The Department concludes that customers' interests are best served by requiring customers to initiate distribution service through direct contact with their distribution companies.

Allowing a supplier to act as a customer of record on behalf of a customers would be problematic for two reasons. First, it would be more difficult for a customer to terminate a relationship with a supplier if the supplier were the customer of record. Second, it is not clear

how the Department's consumer protection regulations would be applied if a supplier were the customer of record. The Department concludes that, although these issues could be resolved upon further investigation, it is not in the best interest of customers to make this change to the relationship between customers and distribution companies concurrent with the introduction of competition in the generation market. The Department believes that this issue would be better addressed at a later date, possibly concurrent with the Department's review of distribution franchises. Finally, with respect to allowing a competitive supplier to act as a customer's agent for purposes of receiving a customer's bill, the Department supports such a provision, but concludes that many issues need to be resolved. The Department may revisit this issue at a later date.

E. Aggregators

1. Proposed Model Terms and Conditions

In the NOI at Att. II, § 2, the Department defined aggregators as entities that group electricity customers. Aggregators that are also "engaged in generating, buying, marketing, or brokering electricity and selling it to retail customers in Massachusetts" would be included under the definition of competitive suppliers and, as such, would be held to the same provisions in the Model Terms and Conditions that would apply to other competitive suppliers. Id.

2. Summary of Comments

Barnstable, DOER, and the Utility Companies identified two categories of aggregators: (1) those that actually buy electricity and sell it to a buyer group (i.e., act as competitive suppliers), and (2) those that bring together buyers and sellers, but are not engaged in retail

sales (i.e., act as agents and brokers) (Barnstable, Tr. 6, at 121, 147; DOER Reply Comments at 13; Utility Companies Reply Comments at 33). These commenters agreed that, because the Model Terms and Conditions are intended to govern the relationship between distribution companies and competitive suppliers, the Model Terms and Conditions should apply fully to those aggregators that act as competitive suppliers (id.). DOER recommended that aggregators that act as competitive suppliers should be included in the Model Terms and Conditions' definition of a competitive supplier and that the term "aggregators" should be defined as those entities that are engaged in procuring or brokering electricity and related services on behalf of a group of customers, so long as the entity does not sell electricity, directly or indirectly, to retail customers (DOER Reply Comments at 13, Exh. A).

DOER and the Utility Companies agreed that rules addressing aggregators that act as agents and brokers need to be developed (e.g., to establish registration requirements), but disagreed regarding the extent to which (1) these rules should be incorporated into the Model Terms and Conditions, and (2) the Model Terms and Conditions should apply to these aggregators (DOER Reply Comments at 12; Utility Companies Reply Comments at 33-34). The Utility Companies asserted that the development of rules addressing this category of aggregators is beyond the scope of this proceeding and that the Model Terms and Conditions should not apply to these aggregators (Utility Companies Reply Comments at 33-34). DOER argued that, as long as aggregators have received the appropriate authorization from customers, they should have access to customer's historic usage information and should be allowed to inform distribution companies of supplier switches for their aggregated customers, consistent

with the provisions included in the Model Terms and Conditions (DOER Reply Comments at 12; Tr. 6, at 117, 133, 144, 150-151).

In addition, DOER asserted that the Model Terms and Conditions should include a new definition for governmental aggregators (DOER Reply Comments at 12, Exh. A). DOER asserted that governmental aggregators "formed by town meeting or other vote of democratically elected legislative bodies" should be allowed to aggregate all users except those who opt out after having a reasonable opportunity to do so. DOER argued that requiring governmental aggregators to receive written verification from consumers would "completely undermine the purpose of representative government and violate the long Massachusetts tradition of municipal and other governments procuring a variety of services, including electricity, on behalf of residents" (id. at 13).

Barnstable stated that the Terms and Conditions should encourage municipal aggregators by, among other things, allowing an opt-out provision (Tr. 6, at 121-122, 140). Barnstable also stated that the Department should require consumer protection provisions, e.g., reliability standards and performance bonds, in all contracts entered into between aggregators and customers (id. at 125-126).

3. Analysis

The Restructuring Act identifies four types of entities that could aggregate electrical load: (1) municipal; (2) for-profit corporations, non-profit corporations, and quasi-public authorities; (3) cooperatives; and (4) governmental agencies, offices, and departments. St. 1997, c.164, § 247. The Act establishes the level of Department oversight that will apply to each type of aggregator. Id.

The Department will establish registration and other requirements for aggregators in our restructuring regulations, as set forth in the Restructuring Act. The issue to be decided in this proceeding is the extent to which the Model Terms and Conditions will apply to aggregators. As an initial matter, the Department concludes that the Model Terms and Conditions for Competitive Suppliers should not distinguish between aggregators that function as competitive suppliers and other competitive suppliers. Thus, this category of aggregators will be subject to all of the provisions in the Model Terms and Conditions for Competitive Suppliers.

Conversely, the Department concludes that the Model Terms and Conditions for Competitive Suppliers should not apply to those aggregators that function as agents and brokers. This is because the provisions included in the Model Terms and Conditions address services (transactions associated with the provision of generation service, billing, load reporting to the ISO-NE) that are outside the scope of services that these aggregators will provide to customers. Consistent with the proposals included in the Working Group Report, the Model Terms and Conditions state that only licensed competitive suppliers can submit the business transactions associated with initiating and terminating generation service with customers (see

Section II. I, below). Similarly, distribution companies will transmit customers' usage, billing, and payment data only to registered suppliers. Aggregators that are not registered as competitive suppliers will be required, on their customers' behalf, to select such a supplier to interact with distribution companies.

The Department identifies one area addressed in the Model Terms and Conditions, access to customer's historic usage information, that might apply to aggregators that function as agents and brokers. The Department will address this issue in its restructuring regulations, 220 C.M.R. § 11.00 et seq.

F. Testing and Training of Competitive Suppliers[10]

1. The Working Group Report

The Working Group Report stated that "among other requirements, a new supplier must have the capability and readiness to participate in the generation marketplace using the electronic business transaction and standards described in" the Report. To help ensure that suppliers have these capabilities, the Report proposed a training and testing framework with which suppliers would be required to comply. In particular, the Report proposed that (1) attendance at an introductory one-day "Supplier Workshop" training session be required as part of the Department's supplier registration requirements; and (2) before a competitive supplier could submit a transaction to a particular distribution company, the supplier would have to successfully complete a test run of the transactions included in the Report (Report at 23-24).

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[10] The Department notes that the NOI was silent on the issues addressed in this section.

The Report stated that the training sessions, which would be offered jointly by the distribution companies on a consistent schedule (e.g., the first day of each month), would be structured to provide an introduction to the regulatory and operational requirements to participate in the competitive generation market in Massachusetts (id.). Proposed items for the agenda include descriptions of (1) the Department's Terms and Conditions, (2) the electronic business transactions approved by the Department, (3) distribution companies' load estimation methods and billing systems, and (4) telemetering alternatives available to suppliers. The Report stated that the details of the training session agenda were not complete at the time the Report was submitted to the Department (id. at 25). The Report proposed that reimbursement for costs associated with these training sessions (e.g., costs associated with training facilities and the production of supplier Guidebooks) be incorporated into the Department's competitive supplier registration fee.

The Report stated that the purpose of the testing is to verify that a supplier is capable of complying with the data transfer standards specified in the Report and has the necessary software and hardware required to send, receive and translate the standard transactions required to do business in this market (id. at 24).[11] The Report recommends that, prior to providing generation service to any retail customer in Massachusetts, a competitive supplier be required to demonstrate its capability of electronically sending data to, and receiving data from, each distribution company in whose service territory it intends to offer these services (id.). The

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[11] The details of the testing requirements were not complete at the time the Report was submitted to the Department (Report at 25, Appendix D).

Report stated that, initially, a distribution company would require two weeks notice from a competitive supplier in order to set up a testing date; this notice period could be reduced after the initial implementation of retail access (id.).

2. Analysis

The Department fully agrees with the Report regarding the importance of suppliers having the capability and readiness to implement successfully the electronic business transactions and standards approved by the Department. Therefore, the Department accepts the recommendations included in the Report regarding training and testing. The Department's restructuring regulations, 220 C.M.R. § 11.00 et seq., will require that, in order to be licensed as a competitive supplier in the state of Massachusetts, a supplier show proof to the Department that it has attended the supplier training session, as described in the Working Group Report. The Department directs the Working Group to submit to the Department the final version of Appendix C of the Report, "Training Standards," upon its completion.

In addition, the Model Terms and Conditions for Competitive Suppliers include the provision that a distribution company shall not process any transactions between itself and a competitive supplier until such time that the supplier has successfully completed a test-run of all the transactions described in the Working Group Report. The Department directs the Working Group to submit to the Department the final version of Appendix D, "Testing Standards," upon its completion.

Finally, the Department rejects the Report's proposal that reimbursement for providing the training sessions be included as part of the Department's competitive supplier registration

fee. These training sessions will provide benefits to all customers of the distribution companies in that competitive suppliers will be better prepared to provide generation service to all customers. Therefore, the Department concludes that costs associated with these sessions should not be treated differently from other costs incurred by distribution companies in providing services to their customers.

G. Customer Authorization

1. Commencement of Competitive Generation Service

a. Proposed Model Terms and Conditions

Regarding the necessary customer authorization to commence competitive generation service or switch suppliers, we stated:

> A request by a supplier that contains the customer's account number and type of customer authorization obtained pursuant to Model Rule § 11.05(4)[12] will be deemed a confirmation that the customer has consented to be switched.

NOI at Att. II, § 3C.4.

b. Summary of Comments

Although commenters agreed that customers must be protected against unauthorized switching or "slamming,"[13] there was not complete consensus among the commenters on the appropriate method. AllEnergy stated that requiring a customer's signature to switch will

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[12] Model Rule § 11.05(4) provided for several methods of obtaining customer authorization to switch suppliers; some of those methods are included in the Restructuring Act, discussed in Section II.G(1)(c), below.

[13] The unauthorized switching of a customer from one long-distance company to another is known as "slamming" in the telecommunications industry.

increase costs and discourage suppliers from serving small commercial/residential customers (AllEnergy Comments at 2). EnergyEXPRESS stated that it supported imposing a requirement for written customer authorization for switching suppliers (EnergyEXPRESS Reply Comments at 3; see also AKL Reply Comments at 1; Attorney General Tr. 2, at 11, 41; DOER, Tr. 2, at 43;[14] LII Reply Comments at 11). EnergyEXPRESS noted that suppliers and marketers have an incentive to devise creative and efficient ways to obtain such authorization (EnergyEXPRESS Reply Comments at 3).

Enron stated that the Department must strike a balance between protecting customers and allowing these customers to receive service as soon as possible. Enron argued that the ability of a supplier to obtain customer data should not be more limited than its ability to notify a distribution company of an authorized switch in suppliers (Enron Reply Comments at 8, 11; Tr. 2, at 35-38). Enron contended that vigorous enforcement of slamming provisions will benefit customers more than burdensome switching requirements, such as requiring written authorization from a customer (Enron Reply Comments at 9). Enron stated that it supports the Department's Model Rule § 11.05(4) (id. at 12).

DOER contended that written authorization should not be required of governmental aggregators (DOER Reply Comments at 5-6). The Utility Companies noted that a written

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[14] DOER stated that it supports the requirement of written authorization for customer enrollment or switching not because of the concern with slamming but rather its concern that customers be shown the terms of their supplier contracts in writing (Tr. 2, at 43-44).

authorization requirement for switching is likely to be cumbersome and could lead to delays (Utility Companies Reply Comments at 26-27).

In support of his position that switching should only occur with the written consent of the customer, the Attorney General stated that slamming in the telephone industry is one of the biggest problems his office has faced (Tr. 2, at 11). He noted that the Federal Communications Commission ("FCC") recently instituted a new proceeding to address recurrent problems with slamming (id. at 11-13). The Attorney General noted that, if the Department did allow means of verification other than written consent, it should impose draconian penalties upon suppliers engaging in slamming (id. at 11-13).

c. Analysis

The Restructuring Act provides a comprehensive scheme for commencement of competitive generation service and resolution of allegations of unauthorized switching. St. 1997, c. 164, § 193 (G.L. c. 164, § 1F(8)(a)-(f)). The Restructuring Act includes the following provisions:

(i) A customer must affirmatively choose a competitive supplier by one of three means: (a) letter of authorization; (b) third-party verification; or (c) a customer-initiated call to an independent third party. Id. at § 1F(8)(a).

(ii) A customer may rescind his or her choice of competitive supplier within three days of a customer's receipt of written confirmation of an agreement to purchase electricity. Id. at § 1F(8)(a).

(iii) A customer must initiate a complaint of unauthorized switching within 30 days of the statement date of the notice indicating that the customer has been switched. If the Department determines that the new service provider does not possess the required proof of the customer's affirmative choice, such new service provider shall be required to (a) refund to the customer the difference between what the customer would have paid to the previous service provider and the actual

> charges paid to the new service provider; (b) refund to the customer any reasonable expense the customer incurred in switching back to the original service provider; and (c) refund to the original service provider any lost revenue, consisting of what the original service provider would have received for the service used by the customer if the customer's service had not been switched. Id. at § 1F(8)(b), (c).

Thus, the Restructuring Act takes a comprehensive approach to the issue of choosing a competitive supplier. Therefore, the Model Terms and Conditions provide that distribution companies must comply with all of the applicable requirements set forth in the Restructuring Act and with applicable Department regulations.

2. Release of Customer Historic Usage Information

a. Proposed Model Terms and Conditions

The NOI at Att. I, § V.2 provided:

> The Company shall not release a Customer's historic billing information to Competitive Suppliers unless the Customer provides the Company with specific authorization to do so. The Company will release this information only to Competitive Suppliers that are registered with the [MDTE].

We further stated:

> Authorization by a customer is required for the release of any of the Company's data specific to that customer, including but not limited to, Customer name, address, account number(s), service identifier(s), load and usage data.

NOI at Att. II, § 4B.

b. Summary of Comments

The primary issue raised by commenters was the type of customer authorization that should be a prerequisite to the release of customer historic usage information by the distribution

company to a competitive supplier.[15] Commenters were sharply divided over whether to require written customer authorization (AKL Reply Comments at 1; Attorney General, Tr. 2, at 11-13, 38; DOER Reply Comments at 5; LII Reply Comments at 11; Utility Companies Reply Comments at 25-26; WMECO-ICG Reply Comments at 1-2) or whether some more flexible means of obtaining customer authorization would be acceptable (EnergyEXPRESS Reply Comments at 3; EnergyVision Reply Comments at 3; Enron Reply Comments at 11-14; Green Mountain Power Reply Comments at 2; NEV-NE Reply Comments at 1-2; TelEnergy Reply Comments at 1).

The Utility Companies argued that authorization to release customer information must comply with 220 C.M.R. § 12.03(9) of the Department's Standards of Conduct for Distribution Companies and their Competitive Affiliates, which states:

> that a distribution company shall not release any proprietary customer information without the prior written authorization of the customer. Initial voice authorization will satisfy this requirement where the Distribution Company obtains subsequent written confirmation within 30 days

(Utility Companies Comments at 14; Tr. 2, at 30). Enron countered that the Department should rescind or amend this provision of the Standards of Conduct as soon as possible as it is inconsistent with the proposition that customer authorization for switching and release of customer information be comparable (Enron Reply Comments at 12-13; see also Green Mountain Power Reply Comments at 3). Enron also urged the Department to consider

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[15] The Utility Companies noted that they will not release payment or credit history as part of customer billing data (Tr. 2, at 46).

amending 220 C.M.R. § 12.03(9) to apply only to requests to distribution companies from their competitive affiliates (Enron Reply Comments at 13 n. 5).

Enron argued that the Department should not enact burdensome, complicated rules for the release of customer information but rather should ensure that there are adequate consumer protections against unauthorized access to customer information (id. at 9). Enron also noted that consumer access to information about their competitive choices is critical to the functioning of a competitive market; without the ability to obtain customer historic usage information readily, suppliers will not be able to provide comparative information promptly (Tr. 2, at 23). Green Mountain Power emphasized that many consumers will find written consent a significant hurdle and will thus be discouraged from entering the competitive market (id. at 19-20).

Related to the issue of the type of authorization needed to release customer data is the issue of supplier responsibility in obtaining such authorization. Enron argued that release of a customer's historic usage data should not be dependent upon either a direct request by the customer to the distribution company nor receipt of a customer's signature from either the customer or the supplier (Enron Reply Comments at 16). Rather, Enron stated, the supplier should be required to verify the customer's consent by some identifying means such as the customer's account number (id. at 16).

The Utility Companies opposed Enron's suggestion that distribution companies should be required to release customer information based solely on a supplier's knowledge of the customer's account number (Utility Companies Reply Comments at 30). The Utility Companies noted, however, that there are alternative ways to make information available without

compromising the confidentiality of customers (id. at 25-26). For example, the requested information may be sent directly to the customer based on an oral request; or customer billing information could be made available electronically, e.g., through the Internet, with access by means of a personal identification number, which could be used by either the customer or by prospective suppliers (id. at 26).

c. Analysis

The Restructuring Act states that the Department shall promulgate standards of conduct which shall be consistent with, among other things, the following provision:

> a distribution company shall not share with any affiliate . . . any proprietary customer information without the prior written authorization by the customer.

St. 1997, c. 164, § 193 (G.L. c. 164, § 1C(v)). The Act is silent regarding a distribution company's release of proprietary customer information,[16] including historic usage information, to non-affiliated suppliers.[17] Further, the Restructuring Act states that the Department shall promulgate "a code of conduct applicable to the provision of distribution service . . . including but not limited to, rules and regulations governing the confidentiality of customer records. . . ." Id. at §193 (G.L. c. 164, § 1F(7)). This provision also imposes civil penalties for violations of

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16 The Restructuring Act does not define "proprietary customer information." Consistent with the principles of statutory construction, we construe this term according to the common usage to mean information that is proprietary to the customer, including historic usage information. See G.L. c. 4, § 6, cl. Third.

17 The Restructuring Act also states that distribution companies shall release "historic records of monthly demand profiles" to commercial or industrial customers in response to a written request from such customer. G.L. c. 164, §193 (G.L. c. 164, § 1F(9)).

"said code or of any rule or regulation promulgated by the Department pursuant to sections 1A to 1H, inclusive. . . ." Id.

The primary question on customer authorization that the Department needs to address is whether the written requirement rule should apply to all competitive suppliers or just competitive affiliates. Written consent is seen by many in the industry as a needlessly burdensome obstacle to the efficient development of a competitive market. Competitive suppliers argue that a written consent rule will inhibit marketers in the promotion of a competitive generation market and that it is not consistent with the way other business transactions take place. The Department is also urged to apply the same rule for the release of proprietary customer billing information as for switching suppliers, discussed above. Competitive suppliers argue that using the same means of verification of customer authorization for switching competitive suppliers and releasing historic usage information will make it easier both for consumers to understand their rights and for marketers to comply with our rules. Moreover, competitive suppliers contend that consumer privacy interests can best be protected by vigorous enforcement of the supplier requirement rules.

Access to customer historic usage information is critical to the development of a competitive marketplace. The Department agrees that using the same means of verification of customer authorization for switching as for release of historic usage information will make it easier both for consumers to understand their rights and for marketers to comply with our rules. On the other hand, the Department shares the concern expressed by the Utility Companies, among others, regarding the confidential nature of this information. The

Department concludes that an appropriate resolution to these issues is to adopt the same means for releasing historic usage information as for obtaining authorization to switch competitive suppliers (see Section II.G.1, above). The Restructuring Act provides three means by which a competitive supplier may obtain proper authorization to switch a customer: (a) letter of authorization; (b) third-party verification; or (c) a customer-initiated call to an independent third party. St. 1997, c. 164, § 193 (G.L. c. 164, § 1F(8)(a)). The Department determines that the same methods for obtaining authorization to switch customers are appropriate for obtaining authorization for the release of historic usage information to a non-affiliate competitive supplier.[18] The Department also agrees that consumer privacy interests can best be protected by vigorous enforcement of the supplier requirement rules. To that end, the Department will promulgate the appropriate rules in our rulemaking proceeding, D.P.U. 96-100. The provision in the Restructuring Act for civil penalties for violations of such code should provide a significant basis for deterrence. Id.

The Department acknowledges that allowing the release of historic customer usage information by means other than written consent imposes a different burden for the release of customer information by a distribution company to its own competitive affiliate than to a non-affiliated supplier. However, the Restructuring Act clearly distinguishes between affiliates and non-affiliates in prescribing in what manner proprietary information will be released. This

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[18] The Restructuring Act states that a distribution company shall release monthly demand profiles to commercial/industrial customers upon the customer's written request in order to ensure that this information shall be readily available to them, but does not preclude the other means of authorization specified above. St. 1997, c. 164, § 193 (G.L. c. 164, § 1F(9)).

direction is one of several in the section requiring the Department to promulgate standards of conduct which shall ensure the separation of affiliates. The Department understands that concerns about the potential for and ease of inappropriate sharing of information between affiliates warrant a requirement for written authorization for the release of information to affiliates. However, those concerns do not lead us to impose the same requirements where the affiliate relationship does not exist.[19] Moreover, the Department is given significant general authority in the development of a code of conduct governing the confidentiality of customer records. Id. at §193 (G.L. c. 164, § 1F(7)).

Therefore, the Model Terms and Conditions state that competitive suppliers will be responsible for obtaining the proper authorization by one of the three methods described above. We do not address here the mechanics of the transaction by which a competitive supplier will inform the distribution company that it has authorization for the release of historic usage information for a particular customer. We leave it to the Working Group to develop the necessary transactions.

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[19] Our current Standard of Conduct rule, 220 C.M.R. § 12.03(9), permits oral authorization followed by written confirmation for the release of customer billing information. As noted above, the Restructuring Act does not make any provision for oral authorization. St. 1997, c. 164, § 193 (G.L. c.164, § 1C(v)). The Department intends to address the effect, if any, of the Restructuring Act's provisions regarding affiliates on the current Standards of Conduct in its proceeding, captioned Department Investigation to Revise Standards of Conduct Currently Set Forth at 220 C.M.R. §12.00 et seq., D.P.U. 97-96, and means to make the requirements of the legislation practicable, consistent with the intent of the legislation.

H. Customer Usage Information Available to Competitive Suppliers

1. Proposed Model Terms and Conditions

While the NOI stated that distribution companies shall not release customer usage information without specific customer authorization to do so, it did not specify the type of customer historic usage information that would be made available to competitive suppliers, nor did it specify how this information would be made available. NOI at Att. I, § V.2; Att. II, § 4B.

2. Summary of Comments

The Utility Companies stated that distribution companies should only be required to provide customer usage information that is readily available on their existing computer facilities. The Utility Companies added that distribution companies would have the option of providing more detailed information at a mutually agreed-to fee (Utility Companies Comments at 14). The Utility Companies noted that each company's bills provide a somewhat different amount of information about historic customer usage and that most companies currently provide twelve month's worth of historic usage data on customers' bills (Utility Companies Reply Comments at 28-29). The Utility Companies urged the Department to allow flexibility and some degree of experimentation on the amount of historic information that should be included on customers' bills, stating that it is likely that efficient and routine information-exchange methods will be developed as the competitive industry develops (id.).

Enron stated that the Department can best ensure the smooth and secure transfer of customer usage information by requiring distribution companies to maintain standardized

electronic usage and billing data that are accessible to authorized competitive suppliers (Enron Reply Comments at 15). Enron and Green Mountain Power stated that, at a minimum, twelve months' worth of historical usage data should be available to suppliers upon request, with the appropriate customer authorization (Enron, Tr. 2, at 34; Green Mountain Power Reply Comments at 3). Enron and Xenergy asserted that three years of usage data would be preferable (Enron, Tr. 2, at 34; Xenergy Comments at 6).

EnergyEXPRESS stated that twelve months' of usage data, together with load profile data would satisfy its marketing needs. EnergyEXPRESS added that these data could be made available either electronically or on customers' bills (EnergyEXPRESS Reply Comments at 3-4). DOER stated that distribution companies should be required to print twelve months' of data on customer bills (DOER Reply Comments at 6). DOER stated that a customer's payment history or other financial information should not be released to competitive suppliers (id. at 5). Finally, AKL stated that distribution companies should not be required to print twelve months' of data on customer bills (AKL Reply Comments at 1-2).

3. Analysis

The Restructuring Act requires that, upon written request from a customer, distribution companies shall provide at least twelve months of historic usage information to commercial and industrial customers that, over the previous three years, have been billed at least partly on a demand basis. St. 1997, c.164, § 193 (G.L. c. 164, § 1F(9)). This information could be provided in either written or electronic form. If provided in electronic form, distribution

companies could charge a cost-based fee. Id. The Act was silent on the type of usage information that would be made available to residential and other non-demand customers.

The Department considers the availability of customers' historic usage information, to both customers and competitive suppliers,[20] to be an essential aspect of ensuring that customers realize the full benefits of a competitive generation market. Historic usage information, in conjunction with load profile data where necessary, will inform competitive suppliers of the hourly load responsibilities and the associated costs that they will incur at the ISO-NE level. Thus, access to this information will be crucial to suppliers as they attempt to develop products and services that will be offered to customers. Reflecting the importance of this information, and the requirements established by the Restructuring Act, the Department includes the following provisions in the Model Terms and Conditions.

Distribution companies shall be required to provide a customer's previous twelve months of usage data[21] to a competitive supplier that has received the appropriate customer authorization, as discussed in Section II.G.1, above. For those customers who, since January 1, 1995, have been billed in part on a demand basis, the type of historic usage data to be provided shall be consistent with the data requirements set forth in the Restructuring Act for these customers. See St. 1997, c.164, § 193 (G.L. c. 164, § 1F(9).

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[20] The Department emphasizes that competitive suppliers are required to receive the appropriate customer authorization, as discussed in Section II.G.1, above, before requesting that the distribution companies make this information available.

[21] The Department notes that the twelve months of historic data should be in addition to the usage data for the most recent billing period.

The Department notes that the Working Group did not reach a consensus on the type of historic usage information to be made available to competitive suppliers, nor the method by which this information would be made available (Working Group Report at 9, 27). The Report stated that the Working Group was awaiting resolution of these issues by the Department in the Terms and Conditions proceeding and that, once these issues were resolved, it would be the objective of the Working Group to suggest a uniform solution by April 1, 1998 (id.). Accordingly, the Department urges the Working Group to develop a procedure for making twelve months of customers' historic usage data available to competitive suppliers in an electronic format. Preferably, this format should be uniform for all distribution companies, consistent with the manner in which other transactions between distribution companies and competitive suppliers will occur. The Working Group should submit its proposal to the Department no later than April 1, 1998, including a timetable for implementation of the proposal. Until the Working Group's proposal is implemented, the distribution companies will be allowed to make these data available to competitive suppliers in a manner specific to each company. As an exception to the need for uniformity discussed in Section I.A, above, each distribution company shall include a description of how this information will be made available to customers and suppliers in its company-specific terms and conditions filing.

With respect to customers having access to historic usage data, the Department believes that customers will find this information to be increasingly important as they attempt to evaluate proposals put forth by prospective suppliers. Therefore, the Model Terms and Conditions require that all distribution companies print twelve months of historic usage data on customers'

bills, in addition to the usage data for the current billing period. Finally, distribution companies will be required to provide customers who, since January 1, 1995, have been billed in part on a demand basis, with twelve months of usage data, upon the customer's written request. These data shall be provided consistent with the data requirements set forth in the Restructuring Act. See St. 1997, c.164, § 193 (G.L. c. 164, § 1F(9).

I. Initiation and Termination of Generation Service

1. Proposed Model Terms and Conditions

In the NOI at Att. II, § 3C, the Department set out a framework by which commencement and termination of generation service provided by competitive suppliers would occur. The Department stated that a competitive supplier must provide a distribution company with the following information electronically at least five days prior to the date that the supplier seeks to commence or terminate generation services: (1) customer account number; (2) competitive supplier identification number; (3) customer billing option; and (4) start or stop date of service. Id. at Att. II, § 3C.3. The Department stated that the effective date of any such commencement or termination normally would coincide with the customer's next scheduled meter read date, provided that the required information was provided to the distribution company at least five days prior to that date. Id. at Att. II, § 3C.5. However, the Department stated that a distribution company must make a reasonable effort to accommodate a request to perform an off-cycle (or non-scheduled) meter read in order to facilitate an off-cycle switch of competitive suppliers. NOI at Att. I, § II.5C.

2. Summary of Comments

The Utility Companies stated that, except for the circumstance when a customer is involuntarily moved onto default service, changes in generation service should occur coincident with a customer's next scheduled meter read date (Utility Companies Comments at 7, 25-27). The Utility Companies stated that, in those instances when a customer is involuntarily moved onto default service, the move should occur within five business days of the date of termination of generation service, using prorated consumption (id. at 27). The Utility Companies stated that distribution companies may elect to accommodate requests for off-cycle switches, either by performing off-cycle meter reads or by prorating customers' monthly consumption, but that off-cycle switches should not be mandatory (id. at 7, 25-27). The Utility Companies noted that, although proration may be possible for off-cycle switches, it should be at the option of each distribution company because of the complexities involved in estimations, demand metering, and the ISO-NE settlement process (Utility Companies Reply Comments at 7-8). Finally, the Utility Companies stated that distribution companies that take actual meter reads on a bimonthly basis will, upon request of a competitive supplier, read the meters of the supplier's customer on a monthly basis in order to effectuate a change in suppliers (id.).

AllEnergy stated that changes in generation service primarily should occur coincident with customers' next scheduled meter read date. AllEnergy stated that such an approach (1) is practical from the standpoint of simplicity and lower administrative costs for both distribution companies and suppliers, and (2) would minimize the customer confusion that tends to occur when bills are prorated (AllEnergy Reply Comments at 2-3). Green Mountain Power stated

that there are no compelling reasons for off-cycle switches, but that termination of generation service should be allowed as quickly as customer agreements allow, with the proration of monthly consumption. Green Mountain Power stated that, under these circumstances, there is no reason to give distribution companies advance notice or to wait until the next meter read (Green Mountain Power Comments at 7, 10).

Enron asserted that, as long as distribution companies continue to be the monopoly provider of metering services, they should be required to provide off-cycle meter reads for purposes of effecting a termination of a non-paying customer (Enron Comments at 34-35, Reply Comments at 35). Enron stated that if meter reads occur on a bi-monthly basis, a supplier might be required to carry a non-paying customer for up to 55 days, imposing an unfair financial burden on suppliers (Enron Comments at 11, 34-35). Enron stated that it might be appropriate to have changes in generation service occur coincident with customers' next scheduled meter read dates as long as meter reads are scheduled on a monthly basis (Tr. 2, at 75). Finally, Enron stated that Att. I, § II.5C should be revised to state that competitive suppliers, not just customers, may initiate generation service (Enron Comments at 11).

3. The Working Group Report

a. Introduction

As stated in Section I.B, above, the Working Group Report proposed a set of electronic business transactions that would take place between distribution companies and competitive suppliers in order to accommodate retail choice, and the rules that will govern those transactions. The transactions were divided into four categories: (1) "account administration"

transactions that would be used to initiate and terminate generation service by competitive suppliers; (2) "usage/billing" transactions that would be required for the passthrough and complete billing options;[22] (3) a "payments and adjustments" transaction that would be required for the complete billing option; and (4) a "settlement" transaction that would inform competitive suppliers of the hourly loads that are reported by distribution companies to the ISO-NE (Report at 7-8).

The Report stated that there will be many unusual and irregular situations that will occur in the normal course of business for which the proposed transactions and rules may not apply directly. However, the Report stated that, given the proposed communication among customers, distribution companies, and suppliers, the transactions included in the Report should be sufficient for most instances (id. at 13).

b. Account Administration Transactions

The Account Administration transactions proposed in the Report would establish the following procedure for the commencement and termination of generation service:

(1) To initiate generation service, a competitive supplier would submit an "enroll customer" transaction to notify the distribution company that the supplier will provide generation service to the customer.[23] Competitive suppliers bear the responsibility for obtaining the appropriate authorization from the customer for initiation of service (Report at 5, 8).

(2) If a customer's account includes more than one distribution service, a supplier may submit one enrollment transaction for each service (in order to have different rates apply

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22 See Section II.J for a description of these billing options.

23 The Report makes no provision for a customer to request commencement of generation service directly from a distribution company. All enrollment transactions must be submitted electronically by competitive suppliers (Report at 5).

to the different services) or, alternatively, one enrollment transaction for the entire account (to have one rate apply to all services).

(3) If the enrollment transaction is successfully processed by the distribution company (see step 5, below), generation service would commence on the date of the customer's next scheduled meter read,[24] provided that the supplier has submitted the enrollment transaction to the distribution company no less than two business days prior to the meter read date. If the supplier does not submit the enrollment transaction at least two days before the meter read date, generation service would commence on the date of the customer's subsequent scheduled meter read date (id. at 8, 12).

(4) If more than one supplier submits an enrollment transaction for a given customer during the same enrollment period,[25] the first enrollment transaction that is received by the distribution company would be accepted. All other transactions would be rejected (these transactions may be resubmitted during the customer's next enrollment period) (id. at 8).[26]

(5) If the information on the enrollment transaction is correct,[27] the distribution company would send the competitive supplier a "successful enrollment" transaction, which would include the projected date of commencement. If the customer is switching from an existing supplier to a new supplier, the distribution company would send the existing supplier a "customer drops supplier" transaction, which would include the projected date of termination (id. at 9-10).

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[24] The Report stated that there was unanimous agreement within the Working Group that initiation and termination of generation service should occur on scheduled meter read dates, except when residential customers seek to terminate generation service with their competitive suppliers, as described in step (7) (Report at 12).

[25] The enrollment period for a particular customer commences two business days prior to the customer's next scheduled meter read date and ends two business days prior to the customer's subsequent scheduled meter read date. An enrollment transaction submitted during this time, if successfully processed, would result in initiation of generation service on the date of the later meter read (Report at 8).

[26] The Report stated that, among other things, this "first-in" approach would provide incentive to suppliers to submit transactions at the earliest possible moment, thus reducing the likelihood of gaming on the part of suppliers (Report at 8).

[27] This information includes, among other things, the customer's name and account number, and the selected billing option (Report at 31).

(6) To terminate generation service with a customer, a supplier would submit a "supplier drops customer" transaction. Service would be terminated on the date of the customer's next scheduled meter read, provided that the supplier has submitted this transaction to the distribution company no less than two business days prior to the meter read date. If the supplier does not submit this transaction at least two days before the meter read date, generation service would be terminated on the date of the customer's subsequent scheduled meter read date. Customers terminated in this manner would receive standard offer service or default service, pursuant to the Department's rules, until they enrolled with a new supplier (id. at 11).

(7) A customer that seeks to terminate generation service with a competitive supplier (without initiating service with a new supplier) would be required to inform the supplier. The supplier would, in turn, be obligated to immediately submit a "supplier drops customer" transaction.[28] In these instances, generation service would be terminated within two business days for residential customers; for other customers, generation service would be terminated on the date of the customer's next scheduled meter read. Customers terminated in this manner would receive standard offer service or default service, pursuant to the Department's rules, until they enrolled with a new supplier (id. at 10-11).

(8) When a distribution company receives a "supplier drops customer" transaction, it would send a "confirm drop date" to the supplier that includes the projected date of termination (id. at 11).

(9) Customers who move within a distribution company's service territory would have the opportunity to inform the distribution company that they seek to continue generation service with their existing suppliers.[29] In these instances, the distribution company would send a "customer move" transaction to the suppliers with the customers' new account numbers. Conversely, customers can inform the distribution company that they seek to terminate service with their current supplier and either enroll with a new supplier or receive standard offer service or default service (id. at 9-10).

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[28] The Report stated that requiring the customer to notify the current supplier of its intent to terminate service (a) affords the customer and supplier an opportunity to resolve any outstanding relationship issues, (b) acknowledges that there may be a contractual relationship between the customer and supplier, and (c) takes the distribution companies out of the role of dispute resolution between the two parties (Report at 10-11).

[29] This does not apply to customers that move into a distribution company's service territory. In these instances, the customers' competitive suppliers must submit an enrollment transaction to the new distribution company (Report at 10).

(10) Distribution companies and suppliers would send "change enrollment detail" transactions to change any information included on the "enroll customer" transactions (id. at 9).

(11) If any of the transactions described above are rejected by the distribution company, the distribution company would send an "error" transaction to the supplier identifying the reason for the rejection (id. at 10).

The Report identified one issue associated with these transactions on which consensus was not reached. Suppliers seek to have distribution companies include a customer's billing address on the "successful enrollment" and "customer move" transactions, as a way of confirming the suppliers' billing information. The distribution companies, however, expressed two concerns: (1) the need to preserve customer confidentiality; and (2) the difficulty of reaching a uniform solution to this issue before the retail access date because each distribution company maintains name and address information differently (id. at 9, 10).

c. Usage/Billing Transactions

There are two transactions included in this category. For a competitive supplier that is using the passthrough billing option,[30] a distribution company would send usage information for each of the supplier's customers. The suppliers would use this usage information to bill their customers for generation service. For a competitive supplier that is using the complete billing option, distribution companies would send both usage and billing information for each of the supplier's customers. This would inform the supplier not only of each customer's electricity consumption, but also the amount billed by the distribution company to the customer for generation service on behalf of the supplier (id. at 11-12).

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30 The billing options that will available to customers and competitive suppliers are discussed in Section II.J, below.

d. Payment and Adjustment Transaction

This transaction would apply only when a competitive supplier is using the complete billing option. The distribution company would send the supplier information about the supplier's customers' payments and any necessary adjustments (id. at 12).

e. Settlement Transaction

This transaction would include the daily load estimate for a competitive supplier, as it is submitted to the ISO-NE. This information would be available upon the request of a competitive supplier.

4. Analysis

As stated in Section I.B, above, the primary objective established for the Working Group was to develop standard transactions and formats for electronic transfer of customer information between distribution companies and competitive suppliers. The Department concludes that, with one exception, the business transactions and rules included in the Report meet this objective and should establish a framework that provides for a smooth transition to retail access. Accordingly, except as discussed below, the Department approves the proposed rules for business transactions included in the Report.

The provision that the Department rejects concerns situations in which a customer seeks to terminate generation service with his or her existing supplier. Under the Report's proposal, termination of service can occur only through a transaction submitted by the existing supplier. Customers that seek to terminate such service would be required to notify their existing supplier, who, in turn, would submit the necessary transaction to the distribution company.

The Department considers it essential that customers have the opportunity to terminate generation service on their own through a telephone call to the distribution company. The Department considers it highly problematic that customers would be required to contact suppliers from whom they want to terminate service. Such an arrangement would create opportunities for suppliers to pressure customers into changing their decision. Therefore, the Department rejects this provision and requests the Working Group to revise the Report to establish the transactions and rules by which a customer may terminate generation service with a competitive supplier through direct contact with the distribution company.

As stated above, the Report did not reach consensus on whether distribution companies should provide competitive suppliers with customers' billing addresses. The Department concludes that distribution companies should provide this information to suppliers in the two transactions discussed above, i.e., the "successful enrollment" transaction, which a distribution company would send to a supplier when generation service is initiated, and the "customer move" transaction, which a distribution company would send to a supplier when a customer moves within the service territory of the distribution company. The Department concludes that providing this information in these instances would not compromise customers' confidentiality since these customers would have entered into a contractual agreement for generation service with these suppliers. The Department requests the Working Group to revise the Report accordingly.

Consistent with the above analysis, the Model Terms and Conditions incorporate the business transactions and rules included in the Working Group Report, with the revisions discussed above.

J. Billing

1. Proposed Model Terms and Conditions

The NOI at Att. II, § 5 allowed customers receiving generation service from a competitive supplier to choose between two billing services: "standard passthrough billing" and "standard complete billing." Under the standard passthrough billing service, customers would receive two separate bills, one from their distribution company for distribution service and another from their competitive supplier for generation service. Under the standard complete billing service, customers would receive one bill from their distribution company for both distribution and generation service. Id.

For the standard passthrough billing service, the Department proposed that the competitive supplier would be responsible for separately billing customers for the cost of generation service and for the collection of amounts owed to the competitive supplier from the customer. The distribution company would be required to make available to the competitive supplier an electronic file containing the applicable billing determinants and records of billing for each customer. NOI at Att. II, § 5A.[31] The Department proposed that the standard passthrough billing service be the default billing service for those occasions when a customer does not elect any type of billing service. Id.

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[31] The details of the electronic file are discussed in Section II.I.3.

For standard complete billing service, the Department proposed that the distribution company would use rates supplied by competitive suppliers to calculate the cost of generation service provided by the competitive supplier and would include these amounts in the bills sent to customers. The distribution company would provide an electronic file to suppliers that would include the applicable billing determinants and the calculated billing amounts for the billing cycle in question. On receipt of customer payments, the distribution company would provide a file to suppliers summarizing the revenue received. Under the Department's proposal, if a customer paid the distribution company less than the full amount owed, the distribution company would apply the payment first to distribution service and any remaining payment to generation service. NOI at Att. II, § 5B.

Also, the Department proposed that a distribution company would (1) charge competitive suppliers a fee for providing billing services; (2) consider accommodating changes to its billing system at the competitive suppliers' expense; (3) offer services, such as providing customer service representatives to answer phone calls from a competitive suppliers' customers, to competitive suppliers; and (4) offer a summary billing option for competitive suppliers that have customers with multiple service accounts who would like to consolidate their multiple bills to a single bill format. NOI at Att. II, § 5B and 5C.

The Department proposed that before a competitive supplier could offer a customer generation service, it must have a service contract with the distribution company that resolves information exchange, problem resolution, and revenue liability issues. NOI at Att. II, § 5.

2. Summary of Comments

a. Third Billing Option

Many of the parties argued that the Department should allow a "third billing option," that would permit competitive suppliers to bill customers for both distribution and generation service (AllEnergy Reply Comments at 5; EnergyEXPRESS Reply Comments at 2; Green Mountain Power Comments at 11; Enron Comments at 42-43, Reply Comments at 18-27). According to Enron, the third billing option would expand customer choice by meeting customer demand with innovative billing approaches (Enron Reply Comments at 19). Enron maintained that the Department should allow the third billing option, and in doing so, should place onto competitive suppliers many of the same customer safeguards that are currently placed on distribution companies (Enron Reply Comments at 20-27).

However, both Enron and AllEnergy recognized that it may not be realistic to work out all of the technical issues associated with implementation of the third billing option by the retail access date (Enron Reply Comments at 27; AllEnergy Reply Comments at 5). Accordingly, both parties argued that the Department should (1) state that the third billing option is in the public interest; (2) establish an implementation date; and (3) establish a proceeding or working group, such as the metering, billing and information services ("MBIS") Collaborative,[32] to resolve any outstanding technical issues (id.).

The Utility Companies opposed allowing competitive suppliers to bill for both distribution and generation service (Utility Companies Reply Comments at 11). The Utility

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32 The MBIS Collaborative is a group formed at the direction of the Department that invited interested parties to get together to address MBIS issues and try to develop a consensus based proposal (see Letters dated May 16, 1997, and June 13, 1997).

Companies argued that the following issues must be evaluated before the Department considers the third billing option: (1) the status of distribution companies subject to the full authority of the Department compared to the less regulated status of competitive suppliers; (2) pricing disclosures; (3) financial obligations of competitive suppliers; (4) customer confusion creating barriers to customer switching; (5) termination obligations; (6) safety and reliability provisions; (7) impact on consumer protection programs; (8) dissemination of important information concerning competitive suppliers; (9) securitization; and (10) access charge recovery (Utility Companies Reply Comments at 11-12). The Utility Companies maintained that these issues should be reviewed in the MBIS Collaborative (id.).

b. Partial Payment

Regarding standard complete billing service, Enron and AllEnergy asserted that partial payments should not be applied first to distribution service, as proposed by the Department (AllEnergy Reply Comments at 5; Enron Comments at 44, Reply Comments at 28). Instead, Enron and AllEnergy argued that a partial payment should be allocated between distribution service and generation service based on the total amount due, both current and past (AllEnergy Reply Comments at 5; Enron Comments at 44, Reply Comments at 28). According to AllEnergy, applying a partial payment first to distribution service will give the distribution company no incentive to collect any payment due beyond what is owed for distribution service (AllEnergy Reply Comments at 5). Enron asserted that applying a partial payment first to distribution service relegates competitive suppliers to the status of a "secondary creditor" and may pose an insurmountable barrier to competitive suppliers who rely on this billing service

(Enron Comments at 44, Reply Comments at 28). Finally, Enron stated that today's vertically-integrated utilities do not apply partial payments to distribution-related expenses first and there is no reason why they should do so at the advent of competition (Enron Reply Comments at 28).

The Utility Companies, Attorney General, and the LII supported the Department's proposal on partial payments (Tr. 4, at 7, 23, 28; Utilities Reply Comments at 13; LII Reply Comments at 12). The Utility Companies asserted that they will have the obligation to serve everyone, whereas competitive suppliers will be able to preselect customers, collect payments, collect deposits, put financial penalties for late payment in their contracts, and terminate customer service (Utilities Reply Comments at 13; Tr. 4, at 7). The Attorney General and the LII asserted that a partial payment should be applied to distribution service first because this would enable customers to avoid termination of electric service, since termination can be done only by a distribution company (LII Reply Comments at 12; Tr. 4, at 23, 28).

c. Optional Customer Services

With regard to requiring distribution companies to offer customer services to customers for competitive suppliers who request such services, many parties stated that these customer services should be optional (AKL Reply Comments at 2; EnergyEXPRESS Reply Comments at 4; Green mountain Power Reply Comments at 3; NEV-NE Reply Comments at 3-4; Utility Companies Reply Comments at 31). The Utility Companies stated that these customer services should be optional, because identifying the unique service needs of an unknown number of competitive suppliers, all of which may be different, and establishing the systems and business

processes and training personnel to provide these services for a large number of competitive suppliers would be unduly burdensome and would tend to slow the implementation of retail choice (Utility Companies Reply Comments at 31). According to EnergyEXPRESS, requiring distribution companies to offer customer services for competitive suppliers would cause the distribution companies to expend funds on a competitive function (EnergyEXPRESS Reply Comments at 4).

Other parties stated that such customer services should be required; to do otherwise would impede competition (DOER Reply Comments at 7; EnergyVision Reply Comments at 5). Enron argued that distribution companies should be required to offer these customer services until MBIS can be offered competitively, to make it easier for competitive suppliers to enter the market (Enron Reply Comments at 31). Also, Enron stated that such customer services must be tariffed rates subject to Department review and approval (id.).

d. Summary Billing

Regarding the requirement that distribution companies must offer a summary billing option[33] to competitive suppliers who have customers with multiple service accounts, some parties argued that the distribution companies should not be required to offer summary billing; instead, providing summary billing should be at the distribution company's discretion (AKL Reply Comments at 2; NEV-NE Reply Comments at 4-5; Utility Companies Reply Comments at 31). According to the Utility Companies, many distribution companies do not currently

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[33] Summary billing consolidates the bills of a customer with multiple service accounts to a single bill.

provide summary billing, and to do so would require significant changes to their billing systems (Utility Companies Reply Comments at 31).

Other parties argued that the distribution companies should be required to provide summary billing given the low cost of providing such service (DOER Reply Comments at 7), and to promote parity of service between customers receiving generation service from their distribution company and customers receiving generation service from a competitive supplier (EnergyVision Reply Comments at 6). According to EnergyEXPRESS, if distribution companies continue to own meters, they should be required to offer summary billing (EnergyEXPRESS Reply Comments at 5).

According to Enron and Green Mountain Power, distribution companies should be allowed to provide summary billing only if the third billing option is allowed (Enron Comments at 32; Green Mountain Power Reply Comments at 3). Enron and Green Mountain Power argued that to do otherwise would allow distribution companies to gain an unfair advantage in capturing customers for generation service (id.).

3. Analysis

a. Third Billing Option

The Restructuring Act states that "distribution companies shall create and send bills to retail customers pursuant to either of the following billing options: (1) single bill from the distribution company that shows such charges; or (2) two bills: one from the non-utility supplier that shows energy-related charges, and one from the distribution company that shows distribution-related charges." St. 1997, c.164, § 193 (G.L. c. 164, § 1D). Accordingly, both

standard passthrough billing and standard complete billing as defined in the NOI at Att. II, §§ 5A and 5B are consistent with the Restructuring Act. A third option that would permit competitive suppliers to bill customers for both distribution and generation service is not one of the billing options stipulated in the Restructuring Act. Therefore, the Department will not include the third billing option in its Model Terms and Conditions at this time. However, the Department notes that, in principle, we support the idea of a third billing option. The Department believes that, at this time, there are a number of technical and policy issues associated with the third billing option that need to be resolved. These issues may be best addressed as part of the overall MBIS investigation.

b. Partial Payment

As stated above, the Department's proposed Model Terms and Conditions included the provision that, where a customer receiving standard complete billing service pays a distribution company less than the full amount owed for distribution service and generation service (i.e., submits a partial payment), the payment would apply to distribution service first and then to generation service. NOI at Att. II, § 5B. The Department retains this provision in the Model Terms and Conditions attached to this Order.

The Department recognizes some merit in Enron and AllEnergy's argument that allowing distribution companies to be paid first might impede competition for competitive suppliers that rely on the standard complete billing service. However, in this case, protecting customers from complete termination of electric service outweighs our concerns about potential barriers to competition at this time. Also, the Department agrees with the Utility Companies

that competitive suppliers will have means of avoiding bad debt expenses or receiving payment from customers that will not be available to distribution companies, such as preselecting customers and terminating service to customers who do not pay. Bad debt for distribution companies can become a cost of service borne by all ratepayers, so shifting the risk to competitive suppliers who can control the risk is fairer. Therefore, the Department will make no changes to the language in the Model Terms and Conditions regarding partial payment for customers receiving standard complete billing service.

c. Optional Customer Services

Although requiring distribution companies to provide customer services would make it easier for competitive suppliers to enter the market, the Department concludes that it would be overly burdensome on distribution companies to require them to provide such services at this time because of the high costs involved and the additional resources needed. In addition, the Department determines that competitive suppliers should be prepared to provide such services as a part of doing business. Accordingly, the Department will modify Att. II, § 8B(3) by making it optional rather than mandatory for distribution companies to provide customer services for competitive suppliers.

d. Summary Billing

For customer convenience and to promote parity of service between customers receiving generation service from their distribution company, through default or standard offer service, and customers receiving generation service from a competitive supplier, the Department concludes that those distribution companies that currently offer summary billing should continue

to do so. However, those distribution companies that currently do not have the resources to offer summary billing should not, at least in the near term, be required to make the significant changes to their billing systems necessary to allow them to offer this service. Accordingly, the Department will modify Att. II, § 8B(4) by making it optional rather than mandatory for distribution companies to provide summary billing for competitive suppliers.

K. Metering

1. Proposed Model Terms & Conditions

The Department proposed that each distribution company meter the load of its customers such that the loads could be reported to the ISO-NE for inclusion in the competitive supplier's, or the competitive supplier's wholesale provider's, own-load dispatch. NOI at Att. II, § 4C. Should a competitive supplier require a change in metering, the Department proposed that a distribution company would provide, install, test, and maintain the required metering. Id. The competitive supplier would bear the distribution company's cost of providing and installing the meter; however, the meter would remain the property of the distribution company. Id. Lastly, the Department proposed that if reasonably possible, the distribution company would complete installation of the meter within 30 days of receiving a written request from a competitive supplier. Id.

2. Summary of Comments

The Utility Companies argued that if a change in meter is requested at a customer's location not only should the distribution company provide, install, test, and maintain the required meter as proposed by the Department, but it should also be permitted to select the

meter (Utility Companies Comments, Att II, § 4C.). The Utility Companies stated that their proposal is designed to implement retail choice by January 1, 1998, while recognizing that changes to metering provisions and to other elements of the Model Terms and Conditions may be needed at a later date (Utility Companies Reply Comments at 32).

Cellnet, DOER, and Enron stated that the Model Terms and Conditions should facilitate a smooth transition to the competitive provision of MBIS (Cellnet Reply Comments at 2; DOER Reply Comments at 7-8; Enron Reply Comments at 43-44). All three parties claimed that the following two principles should be articulated in the Model Terms and Conditions: (1) customers should be able to choose metering technology; and (2) meters should be designed so that they can be easily used and can be easily read by both competitive suppliers and distribution companies (Cellnet Reply Comments at 1; DOER Reply Comments at 8-9; Enron Reply Comments at 44-46). This sort of design is called "open architecture." Cellnet and DOER maintained that there must be an open architecture requirement to ensure that such devices and meters do not create barriers to switching suppliers and to ensure that the distribution company can continue to read the meter, both manually and remotely, should the customer change back to standard offer or default service (Cellnet Reply Comments at 3; DOER Reply Comments at 9). According to Cellnet and DOER, in order to facilitate customer choice, the Model Terms and Conditions should be modified to allow either the customer or the competitive supplier to request a meter or to request that the distribution company attach a communication device to the existing meter for any reason, provided that the

meter or communication device meets the distribution company's requirements (Cellnet Reply Comments at 2-3; DOER Reply Comments at 8-9).

Regarding meter ownership, Cellnet stated that allowing competitive suppliers and customers to own meters may raise a number of technical issues that are better addressed through the MBIS Collaborative (id.). Therefore, Cellnet asserted that it would be better to leave meter ownership with the distribution company for the purposes of this proceeding (id.).

DOER and Enron, on the other hand, argued that the ownership of meters by customers and their competitive suppliers should be approved in this proceeding (DOER Reply Comments at 9; Enron Reply Comments at 44). According to DOER, this would not restrict the outcome of the MBIS proceeding because it would not necessarily have an impact on the business options of either the distribution companies or the competitive suppliers (id.). DOER stated that the distribution companies should keep the same rights and responsibilities as they have today, and competitive suppliers could achieve their business objectives by installing a meter capable of providing additional services beyond those provided by the regulated distribution company (id. at 10). In conclusion, DOER stated that not allowing customers and competitive suppliers to own meters may create a barrier that will reduce the vitality of competition in the retail generation market, increase the price of electricity to end-users, and present a risk to the Commonwealth's future economic development (id. at 11).

According to Enron, the absence of nationally adopted standards does not mean that the Department must foreclose allowing meter ownership by customers or their competitive suppliers (Enron Reply Comments at 45). Enron stated that the Department could draft the

Model Terms and Conditions to indicate that this option would become available after a date certain and provide for inclusion of such provisions at a later date as an attachment to the Model Terms and Conditions (id. at 45-46).

According to NEV-NE, competitive suppliers should be allowed to manage and install metering equipment for large customers at the beginning of retail access, and for smaller customers six months after the beginning of retail access (NEV-NE Reply Comments at 5). Regarding standards for metering equipment and data transfer, NEV-NE stated that such standards should be addressed in the MBIS Collaborative (id.).

AKL Services asserted that the ownership of meters should remain with the distribution company (AKL Services Reply Comments at 2). AKL Services stated that the distribution company should develop a meter upgrade menu and payment options for installing an upgraded meter or metering device (id.).

3. Analysis

The Department addresses two issues regarding metering: (1) the types of meter that can be installed; and (2) ownership of meters. The Department considers these issues to be among the most important issues to be addressed as the electric industry moves to a competitive generation market. This is because the installation of metering equipment capable of recording and transmitting hourly load data is an essential component of having customers enjoy the full benefits of a competitive generation market. Only with the installation of such equipment would customers have the necessary information and the proper incentives to adjust their consumption patterns based on price signals. Allowing customers and their competitive

suppliers to own meters should result in quicker advances in metering technology. In turn, advances in metering should cause a reduction in electricity prices and access to new products and services.

Nevertheless, the Department emphasizes that this proceeding is not the appropriate forum to address the competitive provisions of metering services. The Restructuring Act states that MBIS may not become competitive until January 1, 2000, at the earliest. St. 1997, c.164, § 312.

Moreover, before it is feasible for customers or their competitive suppliers to own meters, many technical issues must be resolved. These unresolved technical issues include a certification process for the meter, standards for metering, communication standards, and protocols for what happens to the meter if a customer terminates service with the competitive supplier for any reason.

Therefore, the Department is not averse to the prospect of customers or competitive suppliers owning the meter. However, the Department will require meter ownership to remain with the distribution company, until the technical issues are resolved. Also, to facilitate customer choice in this proceeding, the Department will allow either a customer or its competitive supplier to request a meter or to request that the distribution company attach a communication device to the existing meter for any reason providing that it meets the distribution company's requirements.

L. Determination of Hourly Loads

1. Proposed Model Terms and Conditions

In the NOI at Att. II, § 8, the Department stated that hourly load estimates for competitive suppliers should be determined using load profiles developed by each distribution company for its customer classes. These hourly load estimates were to be used for two purposes: (1) to calculate the previous day's load for each supplier; and (2) to refine the estimates of the competitive suppliers' monthly energy consumption using actual customer usage based on meter reads.

We also described a process for the determination of the hourly loads consisting of the following steps: (1) identification of a load profile for each customer class for use in daily determinations of hourly load; (2) calculation of a load factor for each customer to account for differences between customers' loads and their class average load, losses, and primary metering configurations; (3) calculation of preliminary load for the previous day for each supplier, to be reconciled to the company loads in the next step; (4) adjustment of preliminary estimates of supplier loads so that the sum of the suppliers' loads equals the company's metered load for each hour; and (5) refinement of the estimates of suppliers' monthly energy supply in kilowatt-hours ("KWH") with information obtained from customers' monthly meter readings. Id.

2. Summary of Comments

Almost all the commenters acknowledged the necessity of using load profiles for load estimation in the absence of universal telemetering and the need for prompt implementation of retail access (Utility Companies Reply Comments at 10; EnergyEXPRESS Comments at 12; Itron Comments at 15). However, AKL stated that since load profiles are not representative of an individual customer's usage, they should not be used in the restructured environment (AKL

Comments at 2). Both Enron and EnergyEXPRESS stated that the proposed method for load estimation was acceptable in the short term only, with EnergyEXPRESS anticipating metered data to replace load profiles (EnergyEXPRESS Comments at 12-13; Enron Comments at 48-49).

While acknowledging the need to use load profiles for load estimation at least in the short term, some commenters noted the potential for errors from such load estimation (Tr. 2, at 125, 156). In response to a record request by the Department to the Utility Companies, WMECo submitted a report by RLW Analytics titled "Northeast Utilities' Load Estimation for Open Access" ("RLW Report"), and NEES submitted a report by Hagler Bailly Consulting, Inc., titled "Evaluation of NEES' Load Estimation, Settlement, and Reconciliation (LESR) System" ("HBC Report") (DPU-RR-5). Both reports stress the need for the use of load profiles for determining hourly loads for suppliers because of the economic infeasibility of installing interval meters[34] for all customers. However, both reports also point out the high level of errors that can arise when load profiles are used to estimate the hourly consumption of any single customer (HBC Report at S-4, RLW Report at 6). The HBC Report, which was released in December 1996, notes that the work was an "operational review" of a process that was being developed at the time of the review (HBC Report at S-1). The HBC Report states

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[34] Interval meters record usage of electricity over small time intervals, for example, every hour or half-hour. Conventional meters maintain a record of the cumulative usage only; therefore, with a conventional meter it is impossible to determine the usage in a specific hour or half-hour. In contrast, interval meters allow such a determination, thus enabling the calculation of charges for individual customers to reflect the hourly or half-hourly price of electricity.

that the process itself will improve as a result of changes that are being made or will be made, at least some of them as a result of the report's conclusions.

CellNet acknowledged that statistical load profiles are necessary for retail access since not everyone has an interval meter, but noted that there were some problems with the use of statistical load profiles (Tr. 2, at 125). First, the feedback effect of price on consumption disappears, because even if customers change their usage pattern, they do not see any effect on the price paid for energy (Tr. 2, at 125-126). The second problem is a result of the first one. According to CellNet, since usage in a particular hour does not change as a result of price changes, suppliers can charge exorbitant rates during peak periods, thus exercising market power (Tr. 2, at 126-127). The third problem CellNet described as "profile drift" (Tr. 2, at 127). Customers whose usage is mainly during off-peak hours or those who can shift it away from the peak period are likely to leave the profile pool and install interval meters. As more of these customers leave, the load profile of the remaining customers will be more concentrated in the peak period. This could be a disadvantage for those customers who cannot afford interval metering or do not have the knowledge to request them, because they will be grouped under a profile with a high peak and will have to pay higher rates for their energy (Tr. 2, at 127). A related problem is that suppliers will cherry-pick and select the customers with better profiles, leaving customers with poorer profiles to pick up the higher costs (Tr. 2, at 127-128).

Coneco stated that a single load profile developed for an entire rate class would not be appropriate because it would not capture the diversity that exists among customers (Coneco Comments at 5). As a solution, Coneco suggested "stratification and clustering of energy

consumption (and demand) in conjunction with load profiles developed by multiple linear regression" (Coneco Comments at 6). Coneco recommended that the Department require the distribution companies to develop load profiles not by rate class, but by averaging customers with similar consumption patterns (Coneco Comments at 8). Coneco argued that customers should not be grouped by rate class, standard industrial code, size of facility, or other arbitrary category, but by occupancy schedule for the facility, density, and efficiency of the heating and cooling equipment. Coneco also stated that the Department should oversee the development of load profiles and the assignment of customers to various load profile groups. Coneco noted, however, that the process of assigning customers did not have to be finished by the retail access date (id.).

DOER stated that the need for consistency worked against other methods of load estimation (DOER Comments at 26). On the same issue, CellNet noted that various groups may recommend alternative methods for developing load profiles that help their constituents but hurt others (CellNet Comments at 5).

Several commenters stated that the load estimation process needs to be completely developed by the retail access date and that the Department should oversee its development. (E.g., Enron Comments at 48; EnergyEXPRESS Comments at 13). Itron suggested that a panel of experts from the distribution companies be involved in standardization of load profiling methods, and that this work be done before the retail access date (Itron Comments at 16). DOER anticipated that the Department would adjudicate and accept the distribution companies' initial load profiles; however, these profiles would change over time (DOER Comments at 26).

Furthermore, there are likely to be disputes among suppliers or between suppliers and the distribution companies regarding load estimates, and the Department would have to be the adjudicator of last resort in these disputes (DOER Comments at 26).

On the issue of consistency among distribution companies on the method for load estimation there were differences between the positions of the parties. The Companies emphasized the need for flexibility, and recommended that a single method not be required for all companies (Utility Companies Comments at 36). They stated that, in this way, innovative load estimation techniques would be developed and implemented (Utility Companies Reply Comments at 10). For example, most distribution companies use historical data for a proxy-day which most closely matches the day for which hourly loads are being estimated. However, Commonwealth Electric reported that it does not use a proxy-day for load estimation, but instead uses a short-term forecasting model to econometrically estimate the load for a particular day (Tr. 2, at 173). Similarly, EnergyEXPRESS stated that the profiles for distribution companies should be developed separately to account for the fact that the patterns of use are different in different parts of the Commonwealth (EnergyEXPRESS Comments at 12-13).

In contrast, AllEnergy stated that the method for developing load profiles should be consistent across distribution companies (AllEnergy Comments at 3). Differences in load profiles for similar customer classes should occur only because of differences in "legitimate exogenous variables," such as climate, heating/cooling technology base, and demographics (AllEnergy Comments at 3).

Some of the commenters recommended that the distribution companies be required to provide details of their load estimation processes and the data they would use (Tr. 2, at 124, 138). Green Mountain Power noted that not enough information was provided on how the profiles were "developed, refined or supplied to competitive suppliers," and recommended that more detailed procedures be provided on these issues in the rules themselves and not in the filings of the individual companies (Green Mountain Power Comments at 8). AllEnergy and Coneco also stated that they would like to see some disclosure regarding the Companies' profiles and the algorithms used to develop them and to estimate load based on the profiles (Tr. 2, at 124, 138).

The Utility Companies commented that they could put load profiles on the Internet so that they would be accessible to all (Tr. 2, at 170-171). However, they pointed out that a supplier would not know which profile or profiles were used to develop the estimate for load for a particular day and thus would not be able to replicate exactly the calculation made by the distribution company on that day (Tr. 2, at 171-172).

A few commenters recommended that competitive suppliers be allowed to use their own estimates of load for a variety of functions (Green Mountain Power Comments at 6; Enron Comments at 48). Green Mountain Power recommended that load serving entities ("LSEs") be permitted to submit daily load forecasts to ISO-NE instead of the distribution company doing so (Green Mountain Power Reply Comments at 1). Green Mountain Power added that, over time, as suppliers accumulate enough customers for statistical validity, they should be able to use their own load profiles (Green Mountain Power Comments at 6). Enron recommended that

the Model Terms and Conditions allow a supplier to estimate and report hourly load where it owned and controlled the meter (Enron Comments at 48).

DOER countered that the allocation of responsibility for load and energy service products needs to be done on a consistent basis (DOER Comments at 25). Such consistency would not be possible if suppliers developed their load profiles independently, and consequently, if load profiles were developed independently, the sum of the suppliers' loads would not necessarily add up to the system load (DOER Comments at 25).

On the issue of allowing suppliers to use their own load profiles for their customers, the Utility Companies thought it would be very difficult because distribution companies will be responsible for reporting loads in their service territories (Tr. 2, at 179-180). If suppliers provided load profiles, the onus of reconciling differences between the load estimates for different suppliers would fall on the distribution company and the reconciliation would be unlikely to be resolved to everyone's satisfaction (Tr. 2, at 180). With the distribution company estimating loads for all suppliers, there would be fairness in how all suppliers were treated (Tr. 2, at 180). The Utility Companies also thought there was potential for "gaming" if suppliers estimated their own loads (Tr. 2, at 180). If suppliers provided load profiles which the distribution company could not verify, then the ISO would have to step in on any dispute between suppliers on the issue of load estimation using load profiles (Tr. 2, at 180-181).

3. Analysis

The Restructuring Act is silent on the issue of load estimation. Therefore, given the absence of universal interval metering for customers in the Commonwealth and the

Department's mandate of providing retail access for all customers by March 1, 1998, we affirm our policy that hourly load estimates for competitive suppliers be determined using load profiles developed by each distribution company for its customer classes. The Department considered the comments on the limitations of this method of load estimation, but notes that the alternatives suggested by the parties also involve the use of load profiles. The difference between the suggested alternatives and the Department's proposal is mainly in how customers are stratified, for example, by consumption patterns rather than by rate classes. The only method that avoids any use of load profiles is telemetering for every customer, but the cost and effort involved in installing such systems is not justified at this time. Furthermore, such systems are unlikely to be ready by the retail access date.

We note the comments on alternatives to using customer class load profiles for the purposes of load estimation. Within the guidelines provided here, we will allow flexibility in the method of developing and using load profiles for load estimation and not require a single method. We think that this approach should encourage innovation in load estimation methods. In this way, the benefits of alternative methods mentioned by commenters are likely to be realized.

On the issue of the Department's involvement in the development of load estimation methods, the load estimation process should be in place before the retail access date in order to avoid confusion, and to allow competitive suppliers enough time to develop the necessary systems. Each distribution company will be required to include its load estimation method with its company-specific filing.

Some commenters recommended that distribution companies be required to provide more information on their load estimation process and the underlying data. We will require the companies to provide details of their load estimation process and the underlying data as part of their filing of terms and conditions. At a minimum, we will require companies to provide a detailed outline of all the steps in the estimation of hourly loads, including how proxy load profiles are selected from historical data. We will also require the companies to describe how customers are grouped together for the purpose of developing and applying load profiles. We will require the companies to post this information on their Internet websites or provide them in an alternative electronic format along with all the load profile data that they use for load estimation, even though a supplier would not know which profile or profiles were used to develop the estimate for load for a particular day and thus would not be able to replicate exactly the calculation made by the distribution company on that day.

On the issue of consistency among distribution companies, we find that load profiles for the companies will be different because of weather, demographics, and other variables. Some commenters have recommended that there be consistency in the method used for load estimation. The methods currently used by the distribution companies for estimation are similar in overall approach but differ in the details such as the number of classes customers are divided into and the method of selecting proxy load profiles from historical data. We will permit these differences for two reasons. First, by not requiring a single method for all distribution companies, we expect to encourage innovation in load estimation techniques, including alternative customer stratification strategies, to develop better load profiles. Second, the utilities

would have to incur considerable costs and expend significant effort to change their existing load estimation methods. The cost and effort are not justified for the apparently relatively small benefit that would accrue. These changes would also require time and might make it difficult for the companies to comply with other requirements of the Department before the retail access date. Therefore, we will not require all the distribution companies to use the same method for load estimation and development of load profiles. However, the method used by each company for load estimation will be reviewed on a schedule to be determined by the Department.

The Department is persuaded that it would not be in the public interest to allow competitive suppliers to develop their own estimates of load for reporting purposes. In any hour, the sum of the loads for competitive suppliers, standard offer service, and default service in a service territory must add up to the system load for that particular distribution company. Otherwise, there will be confusion and endless disputes about how to allocate responsibility for the residual load, that is, the difference between the total of the suppliers' estimates, standard offer service, and default service, and the total service territory load. Allowing only the distribution company to estimate loads for reporting purposes will prevent these problems. Therefore, we will require that only the distribution company's estimate of loads be used for the purpose of reporting to the ISO-NE.

M. Electronic Data Transfer

1. Proposed Model Terms and Conditions

In the NOI at Att. II, the Department identified four transactions between distribution companies and competitive suppliers for which electronic file formats needed to be developed:

(1) commencement or termination of service by a competitive supplier (Id. at Att. II, § 3C.3);

(2) transfer of billing determinant information for standard passthrough billing service (Id. at Att. II, § 5A);

(3) transfer of billing determinant information and billing amount for standard complete billing service (Id. at Att. II, § 5B); and

(4) summary of revenue received for standard complete billing service (Id.).

2. Summary of Comments

There was general consensus among commenters regarding the importance of developing standard formats across all distribution companies for all of the electronic transactions that will occur between distribution companies and competitive suppliers, in order to reduce administrative costs and allow both suppliers and distribution companies to respond more quickly and accurately to customers' choices (AllEnergy Reply Comments at 4; Enron Comments at 23, 31; Fitchburg Comments at 2; Green Mountain Power Comments at 6; Utility Companies, Tr. 3, at 64).

3. The Working Group Report

As stated in Section I, above, the Working Group Report included proposals that addressed, among other things, technical issues associated with (1) the formatting of data to be included in the transactions, (2) the method by which the transactions will be transmitted, and (3) computer operations.

Two sections of the Report address data formatting issues. Appendix A of the Report includes the formats and record fields for each of the 13 proposed transactions. For each

transaction, Appendix A indicates (1) the format type to be used;[35] (2) whether a record field is mandatory, optional, or not applicable; and (3) the type and size of information to be included in each record field. Section V of the Working Group Report, "Data Formats," addresses issues associated with "how to package the data in the records (i.e., the transactions) to transmit them over the telecommunications channel" (Report at 14). The Report states that, "among other features, the package . . . should enclose and secure the transactions for transmission, allow for error recovery, and make a date and time stamp available" (id.). The Report states that, after a review of the technologies and services available for packaging standardized transaction formats for transmission over public and private networks, the Working Group unanimously recommends the use of the electronic commerce industry's Electronic Data Exchange ("EDI") implementation guidelines. The Report states that the EDI format to be implemented will use "existing ANSI ASC X.12 transactions which will be tailored for use in the exchange of information of distribution companies and suppliers" (id.).

Section VI of the Report, "Electronic Transmission," states that, "in order to facilitate the opening of the market for January 1, 1998, the Working Group recommends that a single, or "common denominator," data transport vehicle be specified for the market (id. at 17). However, other methods should be permitted if there is bilateral agreement between market participants to implement and support such methods, and provided they meet minimum requirements. The Report recommends a Value Added Network ("VAN") as the default

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35 There are four format types, one for each category of transaction (see Section II.I, above for a discussion of these categories).

transport medium for the opening of competition, stating that VANs provide an audit trail, reliable and proven technology, and satisfy minimum criteria in key areas such as security/encryption of transactions and customer information and proof of transmission and receipt (id.).

Finally, Section VII of the Report, "Computer Operations Considerations," establishes principles and guidelines for four categories of computer operations: (1) scheduling; (2) file handling; (3) error handling; and (4) data recovery (id. at 17-20).

4. Analysis

The Department concludes that, for the purposes of implementing retail access on March 1, 1998, the technical provisions included in the Report are appropriate and approves these provisions. Because of the technical nature of these provisions, and reflecting the Report's statement that "the detailed operational issues addressed in the proposal are and will continue to be subject to rapid change, especially during the early stages of retail access," the Department will not include these provisions in the Model Terms and Conditions (Report, Cover Letter at 2). Thus, these provisions can be revised outside a Department proceeding. However, the Department considers it important that these provisions be revised with the understanding and consent of the market participants. Therefore, the Department invites the Working Group to submit any revisions for Department review. The Department reserves the right to reject any proposed modification.

N. Fees

1. Proposed Model Terms and Conditions

In the NOI, Att. II, the Department identified seven services for which distribution companies could charge fees to customers and/or competitive suppliers. For the following four services, the fee would be uniform for each competitive supplier in a distribution company's service territory: (1) switching suppliers at any time (Id., § 3C.5); (2) performing an off-cycle meter read (Id.); (3) releasing customer information (Id., § 4B); and (4) providing services associated with standard complete billing service (Id., § 5B). The Department did not specifically address whether these fees would vary from company to company.

For three other services, the Department stated that the level of fees would be set on a case-by-case basis, based on the costs incurred by the distribution companies in providing these services to competitive suppliers. These services are: (1) changing rate structures for complete billing (Id., § 5B); (2) providing optional billing services (Id., § 5C); and (3) changing on/off peak periods (Id., § 7B).

2. Summary of Comments

There was widespread agreement that, for those services for which fees will be permitted, the fees should be based on the incremental costs incurred by distribution companies and should be approved by the Department (AllEnergy Comments at 1, 3; Attorney General, Tr. 4, at 126; DOER Comments at 8; Enron Reply Comments at 34; Green Mountain Power at 6, 8; LII, Tr. 4, at 127; Utility Companies Reply Comments at 13-14). In addition, there was agreement among many commenters that, even if fees for certain services were permitted,

the incremental costs associated with activities such as switching suppliers, providing historical customer usage information, and passthrough billing may not justify the imposition of fees (Attorney General, Tr. 4, at 163; Enron, Tr. 4, at 164; Green Mountain Power Reply Comments at 2; LII, Tr. 4, at 165).

However, there was wide disagreement regarding for which services fees should be permitted. The Utility Companies stated that distribution companies should be allowed to charge a fee for providing those services associated with retail access that will cause the companies to incur additional costs (Utility Companies Reply Comments at 13-14). The Utility Companies stated that these fees should be based on incremental costs and should be charged to competitive suppliers, "consistent with the ratemaking principle of assessing costs based on causation and beneficiaries" (id.). The Utility Companies contended that, because of the significant differences in incremental costs among companies, the Department should not attempt to standardize fees for all distribution companies. Instead, the fees should be approved by the Department on a company-by-company basis (id.).

In contrast to the Utility Companies' position, many commenters argued that there should be no fee associated with (1) switching suppliers, particularly when the switch would occur concurrent with a customer's scheduled meter read; and (2) the release of customers' historic usage information (AKL Comments at 1-2; AllEnergy Reply Comments at 6; EnergyEXPRESS Comments at 3, 10; Green Mountain Power Reply Comments at 2; NEV-NE Comments at 5-7; Xenergy Comments at 4, 6). With respect to the release of customers' historic usage information, DOER and EnergyEXPRESS stated that it may be

appropriate to set a limit on the number of "reports" per customer that would be released free of charge (DOER Comments at 22; EnergyEXPRESS Comments at 10).

With regard to billing services, many commenters stated that fees may be appropriate only for the provision of the standard complete billing option (AKL Comments at 2; AllEnergy Reply Comments at 6; Green Mountain Power Comments at 6; EnergyEXPRESS Comments at 11). Green Mountain Power supported fees for optional customer services (Green Mountain Power Comments at 6), whereas NEV-NE opposed fees for changing a distribution company's billing system until such time as metering, billing, and information services are unbundled (NEV-NE Comments at 7). Finally, NEV-NE and Xenergy stated that it may be appropriate to allow fees for off-cycle meter reads, with Xenergy stating that this would be appropriate only for non-remotely read meters (NEV-NE Comments at 6; Xenergy Comments at 4).

Enron and Green Mountain Power asserted that the cumulative impact of fees could discourage competition and that keeping fees to a minimum would enhance small and low-income customers' ability to participate in the competitive market (Enron Reply Comments at 34; Green Mountain Power Reply Comments at 2).

Finally, AllEnergy, the Attorney General, and Enron stated that the Department should establish uniform fees through a generic process, rather than through company-specific proceedings, in order to give distribution companies the incentive to reduce costs through a performance-based system (AllEnergy Reply Comments at 6; Attorney General, Tr. 4, at 126-127; Enron Reply Comments at 33).

3. Analysis

The Restructuring Act addresses fees in the context of low-income customers initiating and terminating standard offer service and default service. The Restructuring Act specifies that, for a low-income customer, there shall be no fee if the initiation and termination of these services occurs at the time of a scheduled meter read. A distribution company may charge a reasonable fee if the initiation and termination occurs between scheduled meter reads. St. 1997, c.164, § 193 (G.L. c. 164, § 1F(4)(iv)). The Act is silent on fees for other services that may be provided by distribution companies.

Based on the business transactions approved by the Department in this Order and electronic transmission issues addressed by the Working Group Report, the Department identifies three categories of fees: (1) fees associated with processing the business transactions required for the provision of generation service (i.e., the transactions included in the Working Group Report); (2) fees associated with transmitting those transactions over electronic networks;[36] and (3) fees associated with optional billing services that would require distribution companies to revise their metering or billing practices. Consistent with the provisions included in the Restructuring Act, there shall be no fees associated with low-income customer initiating or terminating standard offer service or default service.

In general, the Department supports the principle that distribution companies should be allowed to charge fees to recover net incremental costs (i.e., costs net of savings) associated

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36 The Working Group Report identified a transactional fee that would be associated with the transmission of electronic data between distribution companies and competitive suppliers. The Report does not recommend how these fees should be allocated, stating that this issue would be more appropriately resolved in the Department's Terms and Conditions (Report at 17).

with the implementation of retail access. In addition, the Department supports the principle that fees should be charged directly to competitive suppliers as a cost of doing business.

Further, the Department concludes that, to the extent possible, fees associated with retail access should be uniform for all distribution companies. This is particularly true for those fees that are associated with processing the business transactions required for the provision of generation service. As described in Section II.I, above, these transactions are uniform for all distribution companies. As such, it is likely that the costs associated with processing the transactions would be similar and there would be no rationale for having these fees vary across distribution companies. In addition, establishing fees through a generic proceeding would allow the Department an opportunity to examine on a statewide basis the cumulative impact that fees might have on the development of the competitive market for generation services. Similarly, a generic proceeding would afford the Department the opportunity to investigate on a statewide basis whether the incremental costs associated with providing these services will be large enough to warrant a fee.

With regard to the provision of optional billing services, the Department recognizes that these services, and the associated costs, are likely to vary depending upon the needs and requests of competitive suppliers. Although the Department seeks to establish uniform fees for these services as well as for the services discussed above, we recognize that establishing cost-based fees for optional billing services that are uniform for all distribution companies may be problematic.

The Department will, later in 1998, open a generic proceeding to investigate issues associated with retail access fees. Such a proceeding would not be initiated until the distribution companies have had sufficient experience to gauge the cost of processing the retail access transactions. The Department will establish a schedule for this generic proceeding at a future date.

Until there is an empirical basis for setting uniform fees for processing the business transactions included in the Working Group Report, processing these transactions must be a part of the distribution companies' routine business. However, distribution companies will be allowed to charge company-specific, cost-based fees for the provision of optional billing services during this same period of time. Should a distribution company find that the costs of processing the retail access transactions are sufficiently high to warrant a fee, it may petition the Department to initiate the generic proceeding at an earlier date. The Department encourages the Working Group to attempt to reach a consensus on the fees that would be charged for the services described above. Doing so would be a useful preliminary for the projected generic proceeding.

Finally, the Department concludes that the costs associated with electronic transmission of data between competitive suppliers and distribution companies should be borne by competitive suppliers. Because these costs are outside the direct control of distribution companies, these costs will not be addressed in the generic proceeding discussed above.

O. Liability

1. Proposed Model Terms and Conditions

Although the electric utilities' current terms and conditions on file with the Department have provisions concerning their liability to customers for the provision of electric service, the proposed Model Terms and Conditions in the NOI did not address liability. Rather, we invited commenters to propose appropriate language for both the provision of distribution service and with regard to competitive suppliers. NOI at Att I, § 9 (Company Liability); Att. II at § 9 (Liability and Indemnification).

2. Summary of Comments

Very few commenters addressed the subject of liability.[37] The Utility Companies contended that the Department should "adjust the balance" and permit more limited liability clauses that reflect the business changes in the restructured industry (Utility Companies Reply Comments at 23). The Utility Companies explained that, once the industry is restructured, their service obligations and revenues will be reduced (id.). Distribution companies will operate in a manner analogous to that of a service company such as Federal Express, i.e., one whose product is not in the envelope (id.). Moreover, there will be more parties involved in each transaction and some losses may be the result of the operation of the market or of factors beyond the distribution company's control (id. at 24). The Utility Companies contended that "absent a more limited standard of liability, like `gross negligence,' the Distribution Company may be forced to pay a claim for damages in which it was only peripherally involved and with respect to which it may be the only solvent or identifiable party" (id.). Thus, the Utility

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[37] In addition, a proposed panel on the topic of liability during the public hearings did not attract any speakers.

Companies requested that the Department impose a more limited liability upon distribution companies that matches their more limited role in the business, contending that such an approach would ultimately result in lower costs to customers (id.).

The Utility Companies proposed that "consistent with standard utility practice," distribution companies be liable only for gross negligence[38] or willful misconduct in the provision of distribution service (Utility Companies Comments at 10-11; Reply Comments at 21). In contrast, Enron argued that the Department should not permit the limitation of liability to gross negligence for distribution service because that would be a significant departure not only from the terms and conditions in place now but also from those proposed in electric restructuring settlements filed by Eastern Edison Company and Massachusetts Electric Company in D.P.U. 96-24 and D.P.U. 96-25, respectively (Enron Reply Comments at 6).

With regard to the proposed terms and conditions for competitive suppliers (Att. II), the Utility Companies proposed to limit liability altogether and require competitive suppliers to indemnify distribution companies from any damages caused by their actions (Utility Companies Comments at 23; Reply Comments at 21). Enron proposed that the distribution company and competitive supplier should indemnify each other from all claims of third parties arising in connection with the performance of obligations under the terms and conditions (Enron Reply Comments, App. A, § 9, at 14-15). In addition, Enron suggested that the distribution company

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38 The Utility Companies note that the Department approved a gross negligence liability provision for Berkshire Gas Company's transportation service, MDPU 239, ¶ 9, effective November 1, 1996 (Utility Companies Reply Comments at 21).

and competitive supplier should be liable only for negligent performance of obligations pursuant to the terms and conditions (id. at 15).

The Utility Companies stated that regardless of how the Department ruled on the issue of liability generally, it was very important that distribution companies' obligations for adjustments or damages from the load estimation and settlement process be limited (Utility Companies Reply Comments at 21 n.8). The rationale offered by the Utility Companies was that the settlement process is an administrative service, where an allocation mistake that harms one competitive supplier will benefit another supplier, rather than the distribution company (id.). Unlimited liability would expose the distribution company to the obligation to pay losses to one competitive supplier without the opportunity to receive the gains allocated to the second competitive supplier (id.). Therefore, the Utility Companies argued that competitive suppliers should be held liable for all estimating errors and that the correction of any settlement errors should be subject to NEPOOL regulations (id.).

3. Analysis

The Restructuring Act is silent on the appropriate standard of liability for distribution companies.[39] The Department traditionally has not investigated each company's individual liability clauses in its terms and conditions.[40] No convincing reason has been offered to justify

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[39] The Restructuring Act requires the Department to establish an alternative dispute resolution procedure for the handling of damage claims by customers in an amount under $100. St. 1997, c. 164, § 193 (G.L. c. 164, § 1E(d)).

[40] Berkshire Gas Company's gross negligence standard in MDPU 239, ¶ 9 is not dispositive of the Department's views on the matter. For example, in Boston Gas

(continued…)

changing a utility company's liability to its customers simply because it will provide only distribution service rather than bundled electric service. Moreover, changing the standard of liability to "gross negligence" is not necessary to implement restructuring; the standard of liability for distribution service will not have any effect on the development of a competitive marketplace. Moreover, electric utilities will not be more vulnerable to liability claims for the provision of distribution service after restructuring than they were before restructuring. Thus, the Department determines that each distribution company should retain the same liability provision now in place with regard to the provision of distribution service. Collectively, these provisions have protected companies from effectively incalculable risks.

With regard to the relationship between distribution companies and suppliers, the Department notes that the record provides little to support the positions taken by either Enron or the Utility Companies. However, the Department determines that Enron's proposed language is more acceptable in that it places suppliers and distribution companies in the same position, i.e., mutually indemnified. Therefore, the Model Terms and Conditions incorporate Enron's proposed language on this issue, except with regard to liability for load estimating errors, discussed below.

Finally, the Department will include the language proposed by the Utility Companies to the effect that Competitive Suppliers will be held liable for all load estimating errors and that

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[40](…continued)
Company, D.P.U. 96-50, at 385 (1997), we imposed a negligence standard in Boston Gas Company's force majeure provision in its terms and conditions.

the correction of any settlement errors will be subject to NEPOOL regulations. Att. II, § 9E.III.

§ 9E.III. STANDARD OFFER SERVICE

A. Proposed Model Terms and Conditions

In the NOI at Att. I, § III.1.A, the Department proposed that distribution companies offer standard offer service to those customers who (1) were customers of record on the retail access date, and (2) have not received generation service from a competitive supplier since the retail access date. Under the Department's proposal, a customer who opened a new account with a distribution company after the retail access date would not be eligible for standard offer service. Id. at Att. I, § III.1.B. In addition, a customer who received generation service from a competitive supplier since the retail access date would not be eligible for standard offer service, except that, during the first year after the retail access date, distribution companies would have the option of allowing a residential or small general customer to return to standard offer service within 90 days of the date that the customer first began receiving such generation service. Id. at Att. I, §§ III.1.B, III.5. The Department proposed that standard offer service be available for a maximum of five years after the retail access date, unless otherwise approved by the Department. Id. at Att. I, § III.1.A.

The Department stated that customers receiving standard offer service should receive one bill from their distribution companies. The rates for standard offer service would be approved by the Department and would appear in an unbundled format on customers' bills. Id. at Att. I, §§ III.2, III.3. Finally, the Department proposed terms by which a customer would terminate standard offer service. Id. at Att. I, § III.4.

B. Summary of Comments

The Utility Companies maintained that specific terms and conditions for the provision of standard offer service should not be set forth in these Model Terms and Conditions, but rather should be included in a separate standard offer service tariff for each distribution company. The Utility Companies stated that this would be consistent with the treatment of other tariffed services and would allow distribution companies flexibility in providing this service, particularly in terms of pricing and procurement methods (Utility Companies Comment at 12-13, Reply Comments at 14-15). The Utility Companies asserted that the Model Terms and Conditions should only state that (1) standard offer service will be available in accordance with each distribution company's tariff, and (2) customers receiving standard offer service would receive a single, unbundled bill from their distribution companies (Utility Companies Comment at 12).

Notwithstanding the need for flexibility, the Utility Companies stated that eligibility for standard offer service should be consistent among distribution companies. The Utility Companies asserted that, consistent with the Department's proposed Model Terms and Conditions, standard offer service should be available only to those customers who were customers of record on the retail access date; standard offer service should not be available to new customers in a distribution company's service territory (Utility Companies Reply Comments at 15-16). The Utility Companies argued that allowing new customers to receive standard offer service would (1) be inconsistent with the primary purpose of standard offer service, which is to assist customers in the transition from a fully regulated generation market to a competitive generation market; (2) create significant administrative hurdles for distribution

companies attempting to track customers who move between service territories within Massachusetts; and (3) create uncertainties for suppliers of standard offer service regarding the load for which they will be responsible, possibly resulting in higher prices for this service (id. at 16-17). The Utility Companies added that residential and small commercial and industrial customers should be permitted to return to standard offer service during the first year of retail access, if such return is within 90 days (id. at 18). Finally, the Utility Companies stated that the terms and conditions for standard offer service should allow for the arrangements included in the restructuring settlements filed with the Department (id.).

The LII stated that standard offer service should be available to residential customers new to a distribution company's service territory, arguing that customers should not be denied access to standard offer service "simply because they happened to have crossed a service territory boundary" (LII Reply Comments at 11, 23).

Enron recommended that general provisions regarding standard offer service should be included in the Model Terms and Conditions, with specific provisions left to company-specific tariffs (Enron Reply Comments at 39).

C. Analysis

The Restructuring Act establishes the following requirements regarding the provision of standard offer service:

> (1) The initial rate for standard offer service[41] shall be set so that, when considered in conjunction with customers' transmission, distribution and transition charges, customers'

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[41] The Restructuring Act refers to the rate for standard offer service as the standard service transition rate.

> average rates are reduced by at least 10 percent from 1997 average rates, as determined by the Department. This rate reduction shall increase to 15 percent on or before September 1, 1999 to reflect net proceeds from divestiture and net savings from securitization.[42] St. 1997, c.164, § 193 (G.L. c. 164, § 1B(b)).
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> (2) Standard offer service shall be available for a period of seven years at prices and on terms approved by the Department. Id.;
>
> (3) Distribution companies shall purchase electricity for standard offer service through a competitive bid process that is reviewed and approved by the Department. Id.;
>
> (4) As of March 1, 1999, the rate for Standard Offer Generation Service shall be set so that, when considered in conjunction with Customers' transmission, distribution and transition charges, Customers' average rates shall increase by no more than the rate of inflation, as determined by the Department. Id. at § 1B(e);
>
> (5) A residential customer eligible for low-income discount rates may return to standard offer service at any time. A residential customer eligible for low-income discount rates on the date that retail access commenced who orders service for the first time from a distribution company shall be eligible for standard offer service. A residential customer eligible for low-income discount rates receiving standard offer service shall be allowed to retain such service upon moving within the service territory of a distribution company. Id. at § 1F(4)(iii); and
>
> (6) There shall be no fee to any residential customer for initiating or terminating standard offer service when said initiation or termination is made after a regular meter read. Id. at § 1F(4)(iv).

As an initial matter, the Department agrees with the Utility Companies that, consistent with the treatment afforded other tariffed services, the terms and conditions for standard offer service should be included in a separate tariff, rather than in the Model Terms and Conditions for Distribution Service. Nevertheless, we seek uniformity and simplicity to the extent possible in the provision of this service to customers. Thus, the Department includes a Model Tariff for

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[42] The Restructuring Act makes provisions for a distribution company that is unable to meet these levels of reduction. See St. 1997, c.164, § 193 (G.L. c. 164, §§ 1G(c)(3) and (4)).

standard offer service in this Order (see Attachment III). As with the Model Terms and Conditions, distribution companies must justify any deviations from the Model Tariff when they present their tariffs for review.

The Model Tariff for Standard Offer Service reflects the legislative requirements of the Restructuring Act. In addition, the Model Tariff includes the following provisions not addressed in the Act. First, the Model Tariff provides that all residential customers receiving standard offer service shall be allowed to retain such service upon moving within the service territory of a distribution company. The Department notes that no commenters opposed this provision and that it is consistent with provisions included in the restructuring settlements submitted by MECo, EECo, and BECo.

Second, during the first year of retail access, residential and small commercial and industrial customers that have received generation service from competitive suppliers are eligible to receive standard offer service by so notifying the distribution company within 120 days of the date when the customer first began to receive generation service from a competitive supplier. Once again, the Department notes that no commenter opposed this provision and that it is consistent with provisions included in the restructuring settlements submitted by MECo, EECo, and BECo.

Third, the Model Tariff provides that all residential customers eligible for a distribution company's low-income tariff who order service for the first time from the distribution company (i.e., low-income customers who move into a distribution company's service territory after the retail access date) shall be eligible for standard offer service, regardless of whether the

customer was eligible for the low-income tariff on the date that retail access commenced. The Department concludes that it is not appropriate to distinguish between those customers who are eligible for a distribution company's low-income tariff on the retail access date and those customers who become eligible for the low-income tariff at a later date.

Finally, the Model Tariff states that residential customers who are not eligible for a distribution company's low-income tariff shall not be eligible for standard offer service if they move into the distribution company's service territory after the retail access date. The Department agrees with the Utility Companies that allowing these customers to receive standard offer service would create uncertainty regarding the load for which standard offer suppliers would be responsible. The Department also notes that allowing these customers to receive standard offer service would be inconsistent with the restructuring settlements submitted to the Department.

IV. DEFAULT SERVICE

A. Proposed Model Terms and Conditions

The NOI at Att. I, § IV.3 provides that rates for default service should reflect regional market prices. The Department proposed that customers would be able to choose rates averaged on a monthly, quarterly or annual basis. NOI at Att. I, § IV.3. The Department's proposed rules in D.P.U. 96-100 specified how these rates would be calculated. Mode Rule §11.04(5)(c). The NOI states that a customer could be charged a fee for initiation or termination of default service only if the customer initiated or terminated the service prior to the

next scheduled meter read and requested an unscheduled meter read. NOI at Att. I, § IV.2B; D.P.U. 96-100, at 139-140,

B. Summary of Comments

As a preliminary matter, the Utility Companies stated that specific terms and conditions for the provision of default service should not be set forth in these Model Terms and Conditions, but rather should be included in a separate default service tariff for each distribution company. Instead, the Terms and Conditions should only describe the billing procedure for default service and refer the customer to the tariff for details of the service. The Utility Companies stated that this would be consistent with the treatment of other tariffed services and would allow distribution companies flexibility in providing this service, particularly in terms of pricing and procurement (Utility Companies Comment at 13; Reply Comments at 14-15). In contrast, Enron suggested that default service should be covered by the Model Terms and Conditions in order to (1) ensure uniformity within the state, (2) foster simplicity in electric service, and (3) address as many issues as possible in one proceeding rather than having multiple proceedings (Tr. 5, at 5-6).

There appeared to be general agreement among commenters that it would be appropriate for distribution companies to procure default service supply through competitive bidding (AKL Reply Comments at 3; WMECo-ICG Reply Comments at 4-5; Green Mountain Power Reply Comments at 4-5; EnergyVision Reply Comments at 9; LII Reply Comments at 9-10; Enron Reply Comments at 42-43; Utility Companies Reply Comments at 19-20). However, two commenters stated that competitive bidding would be incompatible with

requiring default service pricing at regional average market prices (DOER Reply Comments at 16; Enron Reply Comments at 43). In addition, DOER stated that requiring that default service be procured through bidding would result in a thinner spot market (DOER Reply Comments at 16).

Several commenters stated that competitive bidding would probably eliminate the volatility of the spot market. However, commenters differed as to whether it would be desirable to do so (Enron Reply Comments at 43; Green Mountain Power Reply Comments at 4; EnergyEXPRESS Reply Comments at 7; EnergyVision Reply Comments at 9). The LII suggested that pricing of default service should be annual, but customers should be able to choose to have semi-annual, quarterly or spot prices (LII Reply Comments at 9-10).

Several commenters emphasized that default service should not provide protection for customers with bad debt (Tr. 5, at 7-9; Tr. 4, at 41-63). Most commenters distinguished between customers who are unable to pay (i.e., low-income customers) and those who are unwilling to pay (TelEnergy Reply Comments at 2; Green Mountain Power Reply Comments at 4-5; EnergyEXPRESS Reply Comments at 7; EnergyVision Reply Comments at 8; NEV-NE Reply Comments 9-11; Enron Reply Comments at 40-41). Most of those commenters suggested that there were many options available for addressing the situation of low-income customers including low-income rates, safety net service, and other specific social policies. Several stated that suppliers would seek to serve low-income customers who were willing but had difficulty paying (Enron Reply Comments at 40-42; Green Mountain Power Reply Comments at 4; EnergyVision Reply Comments at 8-9). Many commenters suggested that

default service should not be designed specifically to address low-income issues (Enron Reply Comments at 40-42; EnergyVision Reply Comments at 8-9).

C. Analysis

The Department agrees with the Utility Companies that the terms and conditions for default service should be included in a separate tariff. Nevertheless, we seek uniformity and simplicity to the extent possible in the provision of service to customers. Thus, the Department includes a Model Tariff for default service in this Order (see Attachment IV). As with the Model Terms and Conditions, distribution companies must justify any deviations from the Model Tariff when they present their tariffs for review by the Department.

The Restructuring Act establishes the following requirements regarding default service:

> (1) Beginning March 1, 1998, each distribution company must provide customers with default service;
>
> (2) Default service shall be available to customers who are not taking standard offer service and who, for any reason, are not receiving electric service from a competitive supplier;
>
> (3) The distribution company must procure default service through competitive bidding, and any Department-approved competitive supplier will be eligible to bid;
>
> (4) The default service rate shall not exceed the average monthly market price of electricity;
>
> (5) All bids to supply default service must include payment options with rates that remain uniform for periods up to six months;
>
> (6) The default service provider may furnish a one-page bill insert;
>
> (7) The Department shall ensure universal service for all ratepayers and sufficient funding to meet the need for that service.

St.1997, c. 164, §§ 193 (G.L. c. 164, § 1B(d)).

The Restructuring Act also establishes the following requirements:

> (1) There shall be no charge for initiating or terminating default service when the request is made after a regular meter reading has occurred and the customer has the results, or when the initiation or termination is involuntary;
>
> (2) A distribution company may impose a reasonable charge, as set by the department, for initiating or terminating default service when the customer does not make such request upon receipt of the results of a regular meter reading and prior to the receipt of the next regularly scheduled meter reading;
>
> (3) There shall be a regular meter reading of residential accounts no less often than once every two months.

St.1997, c. 164, § 193 (G.L. c. 164, § 1F(4)(iv)).

The Model Tariff for default service reflects the legislative requirements of the Restructuring Act. For example, distribution companies must procure default service through a competitive bid process, and the rates for default service shall not exceed the average monthly market price for electricity. The Department will address implementation of the Restructuring Act, including provisions for default service, and will develop rules in our ongoing rulemaking, D.P.U. 96-100 (see Section I.A, above).

V. MODEL TERMS AND CONDITIONS FOR DISTRIBUTION SERVICE

A. Introduction

In this section, we discuss the Model Terms and Conditions for the provision of distribution service, as set forth in Att. I. However, unlike the NOI, Att. I no longer includes default or standard offer service, as we have created separate Model Tariffs for those types of services (see Sections III and IV, above).

B. Selection of Correct Rate

In the NOI at Att. I, § II.1D, we stated that distribution companies must advise customers about the least expensive rate applicable to them. However, we did not specify who was responsible for actually selecting that rate.

The Utility Companies proposed adding a statement that selection of the rate is the responsibility of the customer (Utility Companies Comments at 4). The Department concludes that this proposed addition conforms with our billing regulations and is appropriate. However, we have also included language to make it clear that it is the distribution company's responsibility first to provide adequate information regarding the different available rates, consistent with our consumer adjudicatory precedent. Kopanon v. Massachusetts Electric Company, D.P.U. 88-AD-3 (1994).

C. Method of Application for Service

In the NOI at Att. I, § II.2B, we stated that distribution companies must accept oral application for service. This section was silent concerning whether applicants must be of legal age and did not contain verification and identification procedures for accepting oral applications.

The Utility Companies and Enron proposed language that clarified that the distribution company: (1) may accept oral applications for service; (2) would require all applicants to be of legal age; (3) would establish verification and identification procedures for accepting oral applications; and (4) would require that landlord-customers provide a telephone contact number

and non-post-office-box mailing address as a condition for service (Utility Company Comments at 5; Enron Reply Comments, Att. I.5).[43]

The modifications stated above to Section II.2B proposed by the Utility Companies and Enron clarify and add necessary language to this section and will be included. We have also added language to clarify that if an applicant is not of legal age, he or she must be an emancipated minor in order to contract for service with the distribution company.

D. Term of Customer's Obligation to Company

In the NOI at Att. I, § II.2E, we stated that a customer is liable for service taken until such time as the customer requests termination of distribution service and a final meter reading is recorded. This section did not include any provision for costs incurred where a customer prevents access to a distribution company's equipment.

The Utility Companies and Enron proposed removing the requirement that a customer must request termination of distribution service in order to not be liable for service, i.e., responsible for payment of bills (Utility Companies Comments, Att. I at 5-6; Enron Reply Comments, Att. II at 6). However, the Department believes two things must happen before a customer is not responsible for payment: first, the customer must request termination of distribution service; then the distribution company must make a final meter reading. Therefore, both provisions are included in this section.

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[43] In addition, the Utility Companies proposed language stating that a distribution company may report a customer's credit history to credit reporting agencies (Utility Companies Comments at 5). The Department determines that it is unnecessary to state that distribution companies may report a customer's credit history to credit reporting agencies, as this is outside the scope of this proceeding.

In addition, the Utility Companies and Enron proposed language stating that if the customer hinders access to the distribution company's equipment, the customer shall be liable for any costs that may be incurred by the distribution company in gaining access to the equipment (Utility Companies Comments at 5-6; Enron Reply Comments, Att. II at 6). The Department determines that the language proposed by the Utility Companies and Enron for Section II.2E clarifies this section and, therefore, will be included. However, the Department also adds language stating that if a distribution company unduly delays reading a meter, the customer shall not be responsible for payment of bills beyond a reasonable time following the request for the meter read. This customer protection is currently applied by the Consumer Division of the Department in disputes arising from meter-reading delays.

E. Delivery Point and Metering Installation

In the NOI at Att. I, § II.4A, we did not specify whether a distribution company may change a meter and/or its location. We also stated that, in general, each meter should be considered to be a separate account for rate purposes.

The Utility Companies proposed language stating that the distribution company may at any time change any meter installed by it and also change the location of any meter or change from an outside to an inside type (Utility Companies Comments, Att. I at 7-8). The Department believes that distribution companies should be able to change any meter installed by them. However, distribution companies may not always be able to change the location of the meter, because of the burden placed on the customer, such as the costs incurred and esthetics. Accordingly, the Department will add language in Section II.4A of the Model Terms and

Conditions that states that a distribution company may change any meter that it previously installed. However, we will not allow distribution companies to change the location of a meter from outside the premises to inside the premises without first obtaining the permission of the customer.

Enron proposed adding language to Section II.4A that would allow a customer to own additional meters (Enron Reply Comments, Att. I at 7-8). Whether or not a customer owns additional meters is outside the scope of this proceeding. Therefore, this language will not be added to the Model Terms and Conditions.

Also, Enron proposed language that would allow a customer with multiple metering installations to consolidate such multiple metering installations to establish a single customer account (id.). In this proceeding, the Department has addressed whether a customer with multiple meters should be able to consolidate such metering points to establish a single customer account in Section II.J(3)(d), above. Based on our findings in Section II.J(3)(d), we determine that language allowing a customer with multiple meters to establish a single customer account will not be included in the Model Terms and Conditions at this time.

In Section III.L(3), above, we state that we will allow either a customer or their competitive supplier to request a meter or to request that the distribution company attach a communication device to the existing meter for any reason providing that it meets the distribution company's requirements. In order to be consistent with Section III.L(3), we have added language to Attachment I, Section II.4A allowing either a customer or their competitive

supplier to request a meter or to request that the distribution company attach a communication device to the existing meter.

F. Actual Meter Readings; Estimates; Fees

In the NOI at Att. I, § II.5B, we stated that a distribution company shall take an actual meter reading at least every other month. The section also included a reference to 220 C.M.R. § 25.02, which sets forth the circumstances under which a distribution company is allowed to estimate consumption.

According to the Utility Companies, the reference to 220 C.M.R. § 25.02 should be removed from Section II.5B, because an estimated bill must be issued regardless of the reason that the distribution company was unable to read the meter (Utility Companies Comments at 6). Also, the Utility Companies proposed adding language stating that unscheduled meter reads performed at the request of the customer are subject to additional fees (id.).

Enron proposed adding language that states a customer's meter shall be read once every billing period (Enron Reply Comments at 9). The Utility Companies have agreed to read a bimonthly account on the off-cycle date at the request of a competitive supplier (Utility Companies Reply Comments at 8). However, according to the Utility Companies, permitting all customers to have an actual meter reading by the distribution company every month would require a Department rulemaking proceeding since the Department's Billing and Termination Regulations permit bimonthly meter reads (id.).

The Department determines that the reference to 220 C.M.R. § 25.02 should remain in Section II.5B to inform customers when it is allowable for distribution companies to estimate

consumption. Also, unscheduled meter reads performed at the request of a customer are not always subject to additional fees, such as in the case of a defective meter. Therefore, we will not add language stating that meter readings taken at the request of a customer will be subject to a fee.

Since the Utility Companies have agreed to take an actual meter reading every billing period at the request of a customer's competitive supplier, a sentence to this effect is added to Section II.5B.[44] Finally, the Restructuring Act states "there shall be a regular meter reading conducted of every residential account no less often than once every two months." St. 1997, c.164, § 193 (G.L. c. 164, §1F.(4)(iv)). In addition, the Department agrees that a rulemaking would be necessary in order to require a distribution company to read each customer's meter once every billing period. Accordingly, Enron's proposed language change is rejected.

G. Grounds for Discontinuance of Service

In the NOI at Att. I, § II.6A, we set forth several circumstances under which distribution service could be discontinued, subject to any applicable Department billing and termination procedures.

The Utility Companies and Enron proposed adding language to Section II.6A stating that if a customer provides materially incorrect information to the distribution company, distribution service may be discontinued subject to the Department's billing and termination procedures (Utility Companies Comments at 8; Enron Reply Comments, Att. I at 12). The Department notes that 220 C.M.R. § 25.02(3) allows distribution companies to terminate

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[44] Section II.5B in the NOI has been moved to Section II.5G.

distribution service for reasons other than nonpayment of bills upon receipt of Department approval following an opportunity for hearing. Therefore, the language proposed by the Utility Companies and Enron for Section II.6A will be included in the Model Terms and Conditions.

H. Notice of Equipment Changes

In the NOI at Att. I, § II.7B, we stated that distribution companies must provide information annually to all customers about the types of equipment changes that could affect electric service.

The Utility Companies proposed to delete the notification requirement because it is burdensome (Utility Companies Comments at 9). We note that this information is currently provided to customers and that the Utility Companies have not demonstrated that maintaining this requirement would be unduly burdensome. Accordingly, the Department will leave this provision unchanged.

I. Service in Public or Private Ways

In the NOI at Att. I, § II.7F, we stated that a customer may not install, own, or maintain conductors across or in the public way or any recorded private way, without, in each case, complying with all applicable safety and siting requirements and informing the distribution company.

The Utility Companies proposed to change Section II.7F to state that customers may not bypass the distribution company by installing facilities over public or private ways without obtaining the distribution company's written permission (Utility Companies Comments at 9).

The Restructuring Act states that "the distribution company shall have the exclusive obligation to provide distribution service to all retail customers within its service territory, and no other person shall provide distribution service within such service territory without the written consent of such distribution company which shall be filed with the department and the clerk of the municipality so affected." St. 1997, c. 164 (G.L.c. 164, § 193.1B). The Utility Companies' proposed change to Section II.7F conforms with the Act and is therefore included.

VI. ORDER

The attached Model Terms and Conditions and Model Tariffs shall serve as the basis for the distribution company filings with the Department. Any deviations from the Model Terms and Conditions must be fully supported.

Distribution companies are directed to file their proposed terms and conditions with the Department for review no later than **January 16, 1998**. A distribution company may opt to file the Model Terms and Conditions as an interim measure. In that case, the distribution company will be permitted to file its company-specific terms and conditions for approval by the Department at a later date.

By Order of the Department,

_____
Janet Gail Besser, Acting Chair

_____
John D. Patrone, Commissioner

_____
James Connelly, Commissioner

Att. I: MODEL TERMS AND CONDITIONS FOR DISTRIBUTION SERVICE

I. GENERAL

1. Provisions

The following terms and conditions shall be a part of each Rate Schedule of _____ now or hereafter in effect except as they may be expressly modified by contract or a particular Rate Schedule, or superseded by order or regulations of the Massachusetts Department of Telecommunications and Energy ("MDTE"). If there is a conflict between the orders or regulations of the MDTE and these Terms and Conditions, the orders or regulations of the MDTE shall govern. The headings used in these Terms and Conditions are for convenience only and shall not be construed to be part of, or otherwise to affect, these Terms and Conditions.

2. Definitions

"Competitive Supplier" shall mean any entity licensed by the MDTE to sell electricity to retail Customers in Massachusetts, with the following exceptions: (1) a Distribution Company providing Standard Offer Service and Default Service to its distribution Customers, and (2) a municipal light department that is acting as a Distribution Company.

"Customer" shall mean any person, partnership, corporation, or any other entity, whether public or private, who obtains Distribution Service at a Customer Delivery Point and who is a Customer of record of the Company.

"Customer Delivery Point" shall mean the Company's meter or a point designated by the Company located on the Customer's premises.

"Default Service" shall mean the service provided by the Distribution Company to a Customer who is not receiving either Generation Service from a Competitive Supplier or Standard Offer Service, in accordance with the provisions set forth in the Company's Default Service tariff, on file with the MDTE.

"Distribution Company" or "Company" shall mean an electric company organized under the laws of Massachusetts that provides Distribution Service in Massachusetts.

"Distribution Service" shall mean the delivery of electricity to Customers by the Distribution Company.

"Generation Service" shall mean the sale of electricity, including ancillary services such as the provision of reserves, to a Customer by a Competitive Supplier.

"MDTE" shall mean the Massachusetts Department of Telecommunications and Energy.

"Standard Offer Service" shall mean the service provided by the Distribution Company for a term of seven years after the Retail Access Date, unless otherwise determined by the MDTE. The rates for this service shall be set at levels that achieve the overall Customer rate reductions required by G.L. c. 164, § 1B. Availability for this service shall be in accordance with the with the provisions set forth in the Company's Standard Offer Service tariff, on file with the MDTE.

"Terms and Conditions" shall mean these Terms and Conditions for Distribution Service.

3. Other Provisions

If for any reason a Customer not receiving Standard Offer Service does not have a registered Competitive Supplier, the Company will provide Default Service to the Customer.

II. DISTRIBUTION SERVICE

1. Rates and Tariffs

1A. Schedule of Rates

The Company furnishes its various services under tariffs and/or contracts ("Schedule of Rates") promulgated in accordance with the provisions of G.L. c. 164, and MDTE decisions, orders, and regulations. Such Schedule of Rates, which includes these Terms and Conditions, is available for public inspection during normal business hours at the business offices of the Company and at the offices of the MDTE.

1B. Amendments; Conflicts

The Schedule of Rates may be revised, amended, supplemented or supplanted in whole or in part from time to time according to the procedures provided in G.L. c. 164, §§ 93, 94. When effective, all such revisions, amendments, supplements, or replacements will appropriately supersede the existing Schedule of Rates. If there is a conflict between the express terms of any Rate Schedule or contract approved by the MDTE and these Terms and Conditions, the express terms of the Rate Schedule or contract shall govern.

1C. Modification by Company

No agent or employee of the Company is authorized to modify any provision or rate contained in the Schedule of Rates or to bind the Company to perform in any manner

contrary thereto. Any modification to the Schedule of Rates or any promise contrary thereto shall be in writing, duly executed by an authorized officer of the Company, subject in all cases to applicable statutes and to the orders and regulations of the MDTE, and available for public inspection during normal business hours at the business offices of the Company and at the offices of the MDTE.

1D. Selection of Correct Rate

The Company shall provide notice regarding its applicable rate schedules annually to all Customers. The Company shall advise each new residential Customer of the least expensive rate available for Distribution Service based on information in the Company's records. Each new non-residential Customer shall be advised of the least expensive rate for Distribution Service based on available information in the Company's existing records or as a result of a field inspection by the Company when the Customer provides information that is inconsistent with the Company's records. Upon receipt of adequate information concerning rates, selection of the rate is the responsibility of the Customer. Each Customer is responsible for accurately describing their electrical needs and equipment and updating the Company as changes occur. Each Customer is entitled to change from one applicable Distribution Service rate schedule to another upon written application to the Company. Any Customer who has changed from one Distribution Service rate to another may not change again within one (1) year or any longer period as specified in the tariff under which the Customer is receiving distribution service. A change in rate that is requested by the Customer will not necessarily produce a retroactive billing adjustment.

2. Obtaining Service from the Company

2A. Applying for Service

Application for Distribution, Default, Standard Offer, or any other service offered by the Company will be received through any agent or any duly authorized representative of the Company.

2B. Method of Application

The Company may accept oral application by a prospective Customer for residential service, except as noted in Section II.2C, below. All applicants must be of legal age or an emancipated minor to contract for service with the Company. The Company reserves the right to verify the identity of the Customer and the accuracy of the information provided. Landlord Customers are required to provide a contact telephone number and non-post office box contact mail address as a condition for service. Application for non-residential service may, at the Company's option, be in writing on

forms provided by the Company and payment of a deposit shall be made if applicable and in accordance with 220 C.M.R. § 26.00. When a written application for non-residential service is required, such service shall not commence until the Company has received written application, except that service may temporarily be provided for an interim period not to exceed ten (10) working days pending the receipt of a duly executed written application for service. No agent or employee of the Company is authorized to modify orally any provisions of such written application or to bind the Company to any promise or representation contrary thereto except in writing by a duly authorized Company representative.

2C. Written Application

In the event that an oral application for service is received by the Company from an applicant not currently a Customer of Record for a location where service is scheduled to be disconnected for non-payment or is currently disconnected for non-payment, the Company may request that application be made in writing to any agent or duly authorized representative of the Company as a precondition for service. The Company reserves the right to refuse service, at any location, to an applicant who is indebted to the Company for any service furnished to such applicant. However, the Company shall commence service if the applicant has agreed to a reasonable payment plan.

2D. Description of Service Offered

Upon receipt of an application from a prospective Customer setting forth the location of the premises to be served, the extent of the service to be required, and any other pertinent information requested by the Company, the Company will provide the information required pursuant to Section II.1D and will also advise the Customer of the type and character of the service it will furnish, of the applicable schedule under which service will be provided, of the point at which service will be delivered and, if requested, of the location of the Company's metering and related equipment.

2E. Term of Customer's Obligation to Company

Each Customer shall be liable for service taken until such time as the Customer requests termination of Distribution Service and a final meter reading is recorded by the Company. The bill rendered by the Company based on such final meter reading shall be payable upon receipt. Such meter reading and final bill shall not be unduly delayed by the Company or the Customer may not be liable for payment of bills attributable to such undue delay. In the event that the Customer of Record hinders the Company's access to the meter or fails to give notice of termination of Distribution Service to the Company, the Customer of Record shall continue to be liable for service provided until the Company either disconnects the meter or a new party becomes a Customer of the

Company at such service location. The Customer shall be liable for all costs incurred by the Company when the Customer prevents access to the Company's equipment.

2F. Continuation of Service at Rental Property

On an annual basis, the Company shall notify each Customer that any owner of rental property within the Company's service territory may have service transferred automatically into the owner's name in the event that the Customer of record (tenant) moves out and a new Customer has not applied for Distribution Service. Otherwise, the automatic transfer of service will not occur unless a tenant moves out and the Company has a form signed by the owner or other written authorization on file. The signed form or other written authorization shall be effective without renewal until revoked by the owner. The Company may at its option terminate the service unless authorization from the owner has been received.

2G. Seasonal Residential Service (MDTE Approval Required)

Only the owner of the premises to be served may be the Customer of record unless the tenant provides a signed lease or other evidence demonstrating occupancy for at least a six-month period. Once accepted by the Company as Customer of record, the applicant shall assume all obligations set forth herein with respect to the service.

3. Security Deposits

3A. Non-Residential Accounts

Subject to law and the applicable regulations of the MDTE, security deposits may only be required from new non-residential accounts; or from non-residential accounts for service of a similar character, at any location, under any name, if this service has been properly terminated during the last eighteen months due to non-payment; or if a non-residential account has failed to pay during the same eighteen-month period at least two bills, not reasonably in dispute, within forty-five days from the date of receipt of each such bill. The maximum amount of any security deposit required shall not exceed the equivalent of two months' average use, or the use for any one month, whichever is greater. If actual use information is not available, the Company, with the aid of the Customer, shall estimate an average twelve months' consumption upon which to base the amount of the security deposit in accordance with 220 C.M.R. § 26.03.

3B. Termination of Service

The Company may terminate any non-residential Customer's Distribution Service if a security deposit authorized by Section II.3A, above, is not made in accordance with the provisions outlined in 220 C.M.R. § 26.08.

3C. Refund of Deposit; Interest

The security deposit, plus any accrued interest not previously credited to the account, shall be refunded without request if the Customer has paid all bills for use for any twenty-four month period from the date of deposit and without leaving such bills unpaid for more than forty-five days of their receipt. Interest will accrue on all deposits paid by check, cash, or money order and held over six months at a rate equivalent to the rate paid on a two-year United States Treasury note for the preceding calendar year, or as otherwise determined by 220 C.M.R. § 26.09.

4. Service Supplied

4A. Delivery Point and Metering Installation

The Company shall furnish and install, at locations it designates, one or more meters for the purpose of measuring the electricity delivered. The Company may at any time change any meter it installed. Except as specifically provided by a given rate, all rates in the Schedule of Rates are predicated on service to a Customer at a single Customer Delivery Point and metering installation. Where service is supplied to an account at more than one delivery point or metering installation, each single point of delivery or metering installation shall be considered to be a separate account for purposes of applying the Schedule of Rates, except (1) if a Customer is served through multiple Customer Delivery Points or metering installations for the Company's own convenience, or (2) if otherwise approved by the MDTE, or (3) if the Customer applies to the Company and the use is found to comply with the availability clauses in the Schedule of Rates.

Should a Customer or a Competitive Supplier request a new meter or request that a communication device be attached to the existing meter, the Company shall provide, install, test, and maintain the meter or communication device. The requested meter or communication device must meet the Company’s requirements. The Customer or Competitive Supplier shall bear the cost of providing and installing the meter or communication device. Upon installation, the meter or communication device shall become the property of the Company and will be maintained by the Company. The Company shall complete installation of the meter or communication device within thirty (30) days of receiving a written request from the Customer or Competitive Supplier. The Company shall bill the Customer or Competitive Supplier upon installation.

4B. Conditions for Customer Payment

The Company reserves the right to reject any application for Distribution Service if the amount or nature of the service applied for, or the distance of the premises to be served from existing suitable transmission or distribution facilities, or the difficulty of access thereto is such that the estimated income from the service applied for is insufficient to yield a reasonable return to the Company, unless such application is accompanied by a cash payment or a guarantee of a stipulated revenue for a definite period of time, or both, at the option of the Company, satisfactory to the Company in the exercise of reasonable judgment. The Company will provide a cost estimate for the requested service based on current policies for the line and service extension, as stated in Appendix B. A written cost estimate, sufficient to justify all expenses to be charged to the Customer, shall be provided to the Customer upon request.

4C. Unusual Load Characteristics

The Company may, in the exercise of reasonable judgment, refuse to supply service to loads having unusual characteristics that might adversely affect the quality of service supplied to other Customers, the public safety, or the safety of the Company's personnel. In lieu of such refusal, the Company may require a Customer to install any necessary operating and safety equipment in accordance with requirements and specifications of the Company provided such installation does not conflict with applicable electrical code, and Federal, State or Municipal law.

4D. Temporary Use

Where Distribution Service under the Schedule of Rates is to be used for temporary purposes only, the Customer may be required to pay the cost of installation and removal of equipment required to render service in addition to payments for electricity. Payment of such costs of installation and removal of equipment shall be required in advance of any construction by the Company. If any such installation presents unusual difficulties as to metering the service supplied, the Company may estimate consumption for purposes of applying the Schedule of Rates. Unless otherwise approved by the Company in writing, temporary service shall be defined as installations intended for removal within a period not to exceed twelve months.

4E. Power Factor

Except as may otherwise be provided in a specific rate, a Customer taking service is expected to maintain a power factor of not less than [*to be proposed by the Company*] percent. The Company may require any Customer not satisfying this power factor requirement to furnish, install, and maintain, at no cost to the Company, such corrective

equipment as the Company may deem necessary under the circumstances. Alternatively, the Company may elect to install such corrective equipment at the Customer's expense.

5. Billing and Metering

5A. Billing Period Defined

The basis of all charges is the billing period, defined as the time period between two consecutive regular monthly meter readings or estimates of such monthly meter readings. The standard billing period is thirty (30) days. In the event that a period between bills is less than twenty-six (26) days or more than thirty-four (34) days, billing will be prorated by the Company to reflect a thirty (30)-day billing period. Bills will be rendered once each billing period unless otherwise approved by the MDTE.

5B. Bills; Time of Payment

Unless otherwise specified, bills of the Company are payable upon receipt and may be paid at any business office of the Company or at any authorized collector or agent. Bills shall be deemed paid when valid payment is received at any of these identified payment locations. Bills shall be deemed rendered and other notices duly given when delivered personally to the Customer or three days following the date of mailing to the mailing address, or to the premises supplied, or the last known address of the Customer. The address and telephone number of the MDTE's Consumer Division shall appear on each residential bill rendered by the Company or the Competitive Supplier. Customer payment responsibilities with Competitive Suppliers shall be governed by the particular Customer/Competitive Supplier contract.

5C. Past Due Bills

Any bill rendered to a residential Customer on a monthly basis for which valid payment has not been received within either forty-five (45) days from the date rendered, or for a period of time greater than has elapsed between the rendering of such bill and the rendering of the most recent previous bill, whichever period is greater, shall be considered past due.

5D. Interest on Past Due Non-Residential Accounts

A Distribution Service, Standard Offer, or Default Service bill rendered to a non-residential Customer on a monthly basis for which valid payment has not been received within twenty-five (25) days from the date rendered shall be considered past due and bear interest on any unpaid balance, including any outstanding interest charges.

Such interest rate shall be at a rate no higher than the rate paid on two-year United States Treasury notes for the preceding twelve (12) months ending December 31 of any year, plus ten (10) percent, i.e. 1000 basis points, or as otherwise determined by 220 C.M.R. § 26.10. Such interest charge shall be paid from the date thereof until the date of payment with the exception that any electric service bills rendered to the Federal Government, Commonwealth of Massachusetts, or any agency, city, town, county or political subdivision thereof shall not bear such interest charge until fifty-five (55) days shall have elapsed from the date of such bill.

5E. Billing for Generation Service

The Company shall provide a single bill, reflecting unbundled charges for electric service, to Customers who receive Standard Offer Service or Default Service.

The Company shall offer two billing service options to Customers receiving Generation Service from Competitive Suppliers: (1) Standard Complete Billing Service; and (2) Standard Passthrough Billing Service, as set forth in the Model Terms and Conditions for Competitive Suppliers, § 8.

5F. Generation Source

The Company shall reasonably accommodate a change from Standard Offer Service, Default Service, or Generation Service to a new Competitive Supplier in accordance with the Terms and Conditions for Competitive Suppliers, and shall accommodate a change to Standard Offer Service or Default Service in accordance with the tariffs on file and approved by the MDTE.

5G. Actual Meter Readings; Estimates

The Company shall make an actual meter reading at least every other billing period. At the request of a Customer's Competitive Supplier, the Company shall make an actual meter reading every billing period. If a meter is not scheduled to be read in a particular month, or if the Company is unable to read the meter when scheduled for any of the reasons set forth in 220 C.M.R. § 25.02, or if the meter for any reason fails to register the correct amount of electricity supplied or the correct demand of any Customer for a period of time, the Company shall make a reasonable estimate of the consumption of electricity during those months when the meter is not read, based on available data, and such estimated bills shall be payable as rendered.

5H. Optional Customer Meter Readings

Any Customer who would otherwise receive an estimated bill pursuant to Section II.5B, above, may elect to receive a bill based on a Customer meter reading by reading his/her meter on the date prescribed by the Company and calling the appropriate telephone number provided by the Company to report the reading. However, only Company readings are considered actual readings in accordance with 220 C.M.R. § 25.02.

5I. Access to Meters

A properly identified and authorized representative of the Company shall have the right to gain access at all reasonable times and intervals for the purpose of reading, installing, examining, testing, repairing, replacing, or removing the Company's meters, meter reading devices, wires, or other electrical equipment and appliances, or of discontinuing service, in accordance with the applicable General Laws, MDTE regulations, and Company policy in effect from time to time, and the Customer shall not prevent or hinder the Company's access.

5J. Diversion and Meter Tampering

If a Customer receives unmetered service as the result of any tampering with the meter or other Company equipment, the Company shall take appropriate corrective action including, but not limited to, making changes in the meter or other equipment and rebilling the Customer. The Customer may be held responsible to the Company for any use of electricity that occurs beyond the point of the meter installation.

5K. Returned Check Fee

The Company may assess a returned check fee pursuant to Section II.10, below, to any Customer whose check made payable to the Company is dishonored by any bank when presented for payment by the Company. Receipt of a check or payment instrument that is subsequently dishonored shall not be considered valid payment.

5L. Collection of Taxes

The Company shall collect all sales, excise, or other taxes imposed by governmental authorities with respect to the delivery of electricity or sale of electricity under Default or Standard Offer Service. The Customer shall be responsible for identifying and requesting any exemption from the collection of the tax by filing appropriate documentation with the Company.

6. Discontinuance of Service

6A. Grounds for Discontinuance

The Company may discontinue Distribution Service and/or remove its equipment from any Customer's premises if the Customer has provided the Company with materially incorrect information or fails to comply with the provisions of the Schedule of Rates or any supplementary or other agreement entered into with the Company, subject to any applicable billing and termination procedures of the MDTE. The Company may also discontinue Distribution Service and remove its equipment from the Customer's premises in case of violation of any applicable General Laws, local ordinances or bylaws, or government regulations. The Company may assess an Account Restoration Charge pursuant to Section II.10, below, upon such discontinuance of service. Payment of any Account Restoration Charge may be required as a precondition to restoration of service.

6B. Discontinuance for Unsafe Installation

The Company reserves the right to disconnect its Distribution Service at any time without notice, or to refuse to connect its service, if to its knowledge or in its judgment the Customer's installation is unsafe or defective or will become unsafe imminently. Distribution Service may not be resumed until the local wiring inspector approves the installation. The Company shall make a reasonable effort to notify each Customer prior to such discontinuance of Distribution Service, and in any event shall provide written notice to the Customer of the reason for discontinuance of service and the actions required for resumption of service.

6C. Customer Notice of Termination

The Customer shall be responsible for all charges for service furnished by the Company under the applicable rates as filed from time to time with the MDTE, from the time service is started until it is finally terminated. A Customer who gives at least three (3) business days notice of termination will not be held responsible for charges for service furnished after the requested termination date unless, through fault or neglect of such Customer, the Company is unable to terminate the service, or the Customer is a landlord and the Company is required to comply with the billing and termination regulations of the MDTE.

7. Customer's Installation

7A. Permits

The Company shall make application within a reasonable time period for any necessary locations or street permits required by public authorities for the Company's lines, poles, and other apparatus. The Company shall make Distribution Service available within a reasonable time after such permits are granted. The applicant for Distribution Service shall obtain all other permits, inspections, reports, easements, and other necessary approvals and submit them in writing to the Company. The Company shall not be required to commence or continue service unless and until the Customer has complied with all valid requirements of any governmental authority and any Company requirement approved by the MDTE regarding the use of electricity on the premises (e.g., certificate, permit, license, or right-of-way). The subsequent termination of any valid regulatory or Company requirements for such Distribution Service shall terminate any contract then existing for such service without any liability on the Company for breach of such contract or failure to furnish Distribution Service.

7B. Notice of Equipment Changes

The Customer shall notify the Company in writing before making any significant change in the Customer's electrical equipment if the change could affect the capacity or other characteristics of the Company's facilities required to serve the Customer. The Customer shall be liable for any damage to the Company's facilities caused by any addition or change if made without prior notification to the Company. The Company shall provide annual information to its Customers on general types of additions or changes to the Customer's electrical equipment that could affect the capacity or other characteristics of the Company's facilities.

7C. Separate Service

The Company shall not be required to install a separate service or meter for a garage, barn, or other out-building if located such that the garage, barn, or other out-building may readily be supplied through a service and meter in the main premises.

7D. Standards for Interconnection

The Customer's installation shall conform to the requirements of the Company's Standards for Interconnection and/or such further requirements as the Company may promulgate from time to time, as appropriate and as approved by the MDTE. Copies of such requirements are available from the Company. If the Customer has apparatus for the generation of electricity, the wiring may not be configured to allow interconnection

with the Company's service until forty-five (45) days after the delivery of a notice of intent to interconnect without any objection being raised by the Company, or unless the Customer has obtained the Company's prior written consent in each case.

7E. Suitability of Equipment

All of the Customer's apparatus shall be suitable for operation with the service supplied by the Company. The Customer shall not use the service supplied for any purpose, or with any apparatus, that would cause a disturbance to any part of the Company's system sufficient to impair the service rendered by the Company to its other Customers.

7F. Distribution Service from Outside Service Territory

In accordance with St. 1997, c. 164, § 193 (G.L. c. 164, § 1B(a)), a Customer may not receive Distribution Service from an entity other than the Company with the exclusive obligation to serve within the Customer's service territory without, in each case, obtaining the prior written consent of the Company, and complying with all applicable safety and siting requirements.

8. Company's Installation

8A. Information and Requirements for Distribution Service

Upon request the Company shall furnish to any person detailed information on the method and manner of making service connections. Such detailed information may include a copy of the Company's Information and Requirements Booklet, a description of the service available, connections necessary between the Company's facilities and the Customer's premises, location of entrance facilities and metering equipment, and Customer and Company responsibilities for installation of facilities.

8B. Interference with Company Property

All meters, services, and other electric equipment owned by the Company, regardless of location, shall be and will remain the property of the Company; and no one other than an employee or authorized agent of the Company shall be permitted to remove, operate, or maintain such property. The Customer shall not interfere with or alter the meter, seals or other property used in connection with the rendering of service or permit the same to be done by any person other than the authorized agents or employees of the Company. The Customer shall be responsible for all damage to or loss of such property unless occasioned by circumstances beyond the Customer's control. Such property shall be installed at points most convenient for the Company's access and

service and in conformance with public regulations in force from time to time. The costs of relocating such property shall be borne by the Customer when done at the Customer's request, for the Customer's convenience, or if necessary to remedy any violation of law or regulation caused by the Customer.

8C. Protection of Company's Equipment

The Customer shall furnish and maintain, at no cost to the Company, the necessary space, housing, fencing, barriers, and foundations for the protection of the equipment to be installed upon the Customer's premises, whether such equipment is furnished by the Customer or the Company. If the Customer refuses, the Company may at its option charge the Customer for furnishing and maintaining the necessary protection of the equipment. Such space, housing, fencing, barriers and foundations shall be in conformity with applicable laws and regulations and subject to the Company's specifications and approval.

8D. Meter Accuracy

The Company shall maintain the accuracy of all metering equipment installed pursuant hereto by regular testing and calibration in accordance with recognized standards. A meter which does not vary more than 2 percent above or below the recognized comparative standard shall be considered accurate. After a thorough investigation by the Company, a Customer may ask the Company to test the accuracy of any of its metering equipment installed upon the Customer's premises. Any such test shall be conducted according to the standards as established in G.L. c. 164, § 120. Subsequent requests for testing the said meter shall be subject to individual review by the Company. The Company may, at its option, and with proper pre-notification to Customers assess a fee for any subsequent testing pursuant to G.L. c. 164, § 120. If the meter does not register accurately upon subsequent testing, the assessed fee will be returned to the Customer.

8E. Unauthorized Use or Unsafe Conditions

If the Company finds an unauthorized use of electricity, the Company may make such changes in its meters, appliances, or other equipment or take such other corrective action as may be appropriate to ensure only the authorized use of the equipment and the Company's installation, and also to ensure the safety of the general public. Upon finding an unauthorized use of electricity, the Company may terminate the service and assess reasonable estimated service charges as well as all costs incurred in correcting the condition. Nothing in this paragraph shall be deemed to constitute a waiver of any other rights of redress which may be available to the Company or the Customer, or to

limit in any way any legal recourse which may be open to the Company including, without limitation, G.L. c. 164, § 127 and 127A.

8F. Underground Surcharge

In the event that a municipality within which the Company furnishes Distribution Service votes to adopt a bylaw or ordinance forbidding new installation of overhead transmission or distribution facilities or requiring removal of existing facilities, the Company may charge its Customers within such a municipality a differential in rates or a billing surcharge, as appropriate, in accordance with G.L. c. 166, §§ 22D, 22L, 22M and relevant Company policies approved by the MDTE.

9. Company Liability

Note: Each Company shall propose provisions regarding Company liability substantially consistent with the provisions contained in its current Terms and Conditions.

10. Schedule of Charges

The Company reserves the right to impose reasonable fees and charges pursuant to the various provisions of these Terms and Conditions. Said fees and charges shall be set forth in Appendix A to these Terms and Conditions, as on file with the MDTE.

11. Line Extension Policy

The Company's line extension policy is included in Appendix B.

Appendices A and B are Company-specific.

Att. II: MODEL TERMS AND CONDITIONS FOR COMPETITIVE SUPPLIERS

1. Applicability

1A. The following Terms and Conditions shall apply to every registered Competitive Supplier authorized to do business within the Commonwealth of Massachusetts, and to every Customer and Distribution Company doing business with said Competitive Suppliers.

1B. These Terms and Conditions may be revised, amended, supplemented or supplanted in whole or in part from time to time according to the procedures provided in MDTE regulations and Massachusetts law. In case of conflict between these Terms and Conditions and any orders or regulations of the MDTE, said orders or regulations shall govern.

1C. No agent or employee of the Company is authorized to modify any provision contained in these Terms and Conditions or to bind the Company to perform in any manner contrary thereto. Any such modification to these Terms and Conditions or any such promise contrary thereto shall be in writing, duly executed by an authorized officer of the Company, and subject in all cases to applicable statutes and to the orders and regulations of the MDTE, and available for public inspection during normal business hours at the business offices of the Company and at the offices of the MDTE.

2. Definitions

"Competitive Supplier" shall mean any entity licensed by the MDTE to sell electricity to retail Customers in Massachusetts, with the following exceptions: (1) a Distribution Company providing Standard Offer Service and Default Service to its distribution Customers, and (2) a municipal light department that is acting as a Distribution Company.

"Customer" shall mean any person, partnership, corporation, or any other entity, whether public or private, who obtains Distribution Service at a Customer Delivery Point and who is a Customer of record of the Company.

"Customer Delivery Point" shall mean the Company’s meter or a point designated by the Company located on the Customer’s premises.

"Default Service" shall mean the service provided by the Distribution Company to a Customer who is not receiving either Generation Service from a Competitive Supplier or Standard Offer Service, in accordance with the provisions set forth in the Company's Default Service tariff, on file with the MDTE.

"Distribution Company" or "Company" shall mean an electric company organized under the laws of Massachusetts that provides Distribution Service in Massachusetts.

"Distribution Service" shall mean the delivery of electricity to Customers by the Distribution Company.

"EBT Working Group Report" or "Report" shall mean the most recently revised version of the report initially submitted by the Electronic Business Transaction Working Group on October 9, 1997. The Report shall be on file at the MDTE.

"Enrollment period" shall mean, for a particular Customer, the period of time during which a Competitive Supplier may submit an enrollment transaction to a Distribution Company for initiation of Generation Service concurrent with the start of the Customer's next billing cycle.

"Generation Service" shall mean the sale of electricity, including ancillary services such as the provision of reserves, to a Customer by a Competitive Supplier.

"ISO-NE" shall mean the Independent System Operator of the New England bulk power system.

"MDTE" shall mean the Massachusetts Department of Telecommunications and Energy.

"NEPOOL" shall mean the New England Power Pool and its successors.

"NEPOOL PTF" shall mean pool transmission facilities included in the NEPOOL Open Access Transmission Tariff on file with the Federal Energy Regulatory Commission.

"Own-Load Calculation" shall mean the settlement method utilized by NEPOOL for its members, as set forth in the NEPOOL Agreement, as amended from time to time, on file as a tariff with the Federal Energy Regulatory Commission.

"Standard Offer Service" shall mean the service provided by the Distribution Company for a term of seven years after the Retail Access Date, unless otherwise determined by the MDTE. The rates for this service shall be set at levels that achieve the overall Customer rate reductions required by G.L. c. 164, § 1B. Availability for this service shall be in accordance with the with the provisions set forth in the Company's Standard Offer Service tariff, on file with the MDTE.

"Terms and Conditions" shall mean these Terms and Conditions for Competitive Suppliers.

3. Obligations of Parties

3A. Customer

A Customer shall select one Competitive Supplier for each account at any given time, or authorize an agent to make the selection for the Customer, for the purposes of the Distribution Company (1) reporting the Customer's hourly electric consumption to the ISO-NE, and (2) providing billing services. The Customer must provide the selected Competitive Supplier with the information necessary to allow the Competitive Supplier to initiate Generation Service, in accordance with Section 6A, below. A Customer may choose only a Competitive Supplier that is licensed by the MDTE.

Nothing in these Terms and Conditions shall prohibit a Customer from entering into arrangements with multiple suppliers, provided that a single Competitive Supplier is designated for the purposes described above.

3B. Distribution Company

The Company shall:

(1) Arrange for or provide (i) regional network transmission service over NEPOOL PTF and (ii) local network transmission service from NEPOOL PTF to the Company's Distribution System for each Customer, unless the Customer or its Competitive Supplier otherwise arranges for such service;

(2) Deliver power over distribution facilities to each Customer Delivery Point;

(3) Provide customer service and support for Distribution Service and, if contracted by the Competitive Supplier, for Generation Service in accordance with Section 8B.3 below;

(4) Respond to service interruptions or power quality problems;

(5) Handle connections and terminations;

(6) Read meters;

(7) Submit bills to Customers for Distribution Service and, if contracted by the Competitive Supplier, for Generation Service in accordance with Section 8B below;

(8) Address billing inquiries for Distribution Service and, if contracted by the Competitive Supplier, for Generation Service in accordance with Section 8B.3 below;

(9) Answer general questions about Distribution Service;

(10) Report Competitive Suppliers' estimated and metered loads, including local network transmission and distribution losses, to the ISO-NE, in accordance with Section 9 below;

(11) Process the electronic business transactions submitted by Competitive Suppliers, and send the necessary electronic business transactions to Competitive Suppliers, in accordance with Section 5, below, and the rules and procedures set forth in the EBT Working Group Report;

(12) Provide information regarding, at a minimum, rate tariffs, billing cycles, and load profiles, on its Internet website or by alternate electronic means;

(13) Provide Standard Offer Service to Customers in accordance with the Company's tariff; and

(14) Provide Default Service to Customers in accordance with the Company's tariff.

3C. Competitive Supplier

1. Each Competitive Supplier must meet the registration and licensing requirements established by law or regulation and either (i) be a member of NEPOOL subject to an Own-Load Calculation or (ii) have an agreement in place with a NEPOOL member whereby the NEPOOL member agrees to include the load to be served by the Competitive Supplier in such NEPOOL member's Own-Load Calculation.

2. A Competitive Supplier shall be responsible for providing all-requirements service to meet each of its Customers' needs and to deliver the associated capacity and energy to a point or points on NEPOOL PTF.

3. A Competitive Supplier providing Generation Service to Customers will be responsible for any and all losses incurred on (i) local network transmission systems and distribution systems, as determined by the Company; (ii) NEPOOL PTF, as determined by the ISO-NE; and (iii) facilities linking generation to NEPOOL PTF. A Competitive Supplier shall also be responsible for all transmission wheeling charges necessary to reach NEPOOL PTF.

4. A Competitive Supplier shall be required to complete testing of the transactions included in the EBT Working Group Report prior to the initiation of Generation Service to any Customer in the Company's service territory. Such testing shall be in accordance with the rules and procedures set forth in the Report.

5. Each Competitive Supplier shall be required to enter into a service contract with the Distribution Company that resolves issues associated with, among other things, information exchange, problem resolution, and revenue liability. This contract must be entered prior to the initiation of Generation Service to any Customer in the Company's service territory.

6. A Competitive Supplier shall be responsible for obtaining the necessary authorization from each Customer prior to initiating Generation Service to the Customer. Such authorization shall be in accordance with St. 1997, c. 164, § 193 (G.L. c. 164, § 1F(8)(a)) and 220 C.M.R. § 11.05.

7. A Competitive Supplier not affiliated with the Company shall be responsible for obtaining the necessary authorization from each Customer prior to requesting the Company to release the Company's historic usage information specific to that Customer to such Competitive Supplier. Such authorization shall consist of (i) letter of authorization; (ii) third-party verification; or (iii) a customer-initiated call to an independent third-party, consistent with 220 C.M.R. § 11.05. A Competitive Supplier affiliated with the Company must obtain a Customer's written authorization prior to requesting the release of the Company's historic usage information specific to that Customer consistent with St. 1997, c. 164, § 193 (G.L. c.164, § 1C(v)) and 220 C.M.R. § 12.00 et seq.,

4. Customer Usage Information to be Made Available to Competitive Suppliers

The Company shall be required to provide twelve months' of a Customer's historic usage data to a Competitive Supplier, provided that the Competitive Supplier has received the appropriate authorization, in accordance with the provisions established in Section 3C.7, above. This information shall be provided in electronic form.

For commercial and industrial Customers, including institutional customers, that have, since January 1, 1995, been billed, at least in part, on a demand basis, historic usage data shall be provided

The Company shall print twelve months' of historic usage data on customers' bills, in addition to the usage data for the current billing period.

The Company shall be required to provide customers who, since January 1, 1995, have been billed in part on a demand basis, with twelve months of usage data, upon the customer's written request. These data shall be provided pursuant to the requirements set forth in St. 1997, c.164, § 193 (G.L. c. 164, § 1F(9)).

5. Initiation and Termination of Generation Service

5A. Initiation of Generation Service

To initiate Generation Service to a Customer, the Competitive Supplier shall submit an "enroll customer" transaction to the Company, in accordance with the rules and procedures set forth in the EBT Working Group Report.

If the information on the enrollment transaction is correct, the Distribution Company shall send the Competitive Supplier a "successful enrollment" transaction, in accordance with the rules and procedures set forth in the EBT Working Group Report. Generation Service shall commence on the date of the Customer's next scheduled meter read, provided that the Supplier has submitted the enrollment transaction to the Distribution Company no fewer than two business days prior to the meter read date. If the Supplier has not submitted the enrollment transaction at least two days before the meter read date, Generation Service shall commence on the date of the Customer's subsequent scheduled meter read.

If more than one Competitive Supplier submits an enrollment transaction for a given Customer during the same enrollment period, the first transaction that is received by the Distribution Company shall be accepted. All other transactions shall be rejected. Rejected transactions may be resubmitted during the customer's next enrollment period.

5B. Termination of Generation Service

To terminate Generation Service with a Customer, a Competitive Supplier shall submit a "supplier drops customer" transaction, in accordance with the rules and procedures set forth in the EBT Working Group Report. Generation Service shall be terminated on the date of the customer's next scheduled meter read, provided that the Competitive Supplier has submitted this transaction to the Distribution Company no fewer than two business days prior to the meter read date. If the Competitive Supplier has not submitted this transaction at least two days before the meter read date, Generation Service shall be terminated on the date of the Customer's subsequent scheduled meter read. The Distribution Company shall send a "confirm drop date" transaction to the Competitive Supplier, in accordance with the rules and procedures set forth in the EBT Working Group Report.

To terminate Generation Service with a Competitive Supplier, a Customer shall so inform the Distribution Company. Generation Service shall be terminated within two business days for residential customers; for other customers, Generation Service shall be terminated on the date of the Customer's next scheduled meter read. The Distribution Company shall send a "customer drops supplier" transaction to the Competitive Supplier, in accordance with the rules and procedures set forth in the EBT Working Group Report.

In those instances when a Customer who is receiving Generation Service from an existing Competitive Supplier initiates such service with a new Competitive Supplier, the Distribution Company shall send the existing Competitive Supplier a "customer drops supplier" transaction, in accordance with the rules and procedures set forth in the EBT Working Group Report.

5C. Customer Moves

A Customer that moves within a Distribution Company's service territory shall have the opportunity to notify the Distribution Company that he/she seeks to continue Generation Service with his/her existing Competitive Supplier. Upon such notification, the Distribution Company shall send a "customer move" transaction to the Competitive Suppliers, in accordance with the rules and procedures set forth in the EBT Working Group Report.

In those instances when a Customer moves into a Distribution Company's service territory, the Customer's existing Competitive Supplier must submit an "enroll customer" transaction to the new Distribution Company in order to initiate Generation Service. Otherwise, the Customer shall receive Standard Offer Service or Default Service, in accordance with the Company's respective tariffs.

5D. Other Provisions

Distribution Companies and Suppliers shall send "change enrollment detail" transactions to change any information included on the "enroll customer" transactions, in accordance with the rules and procedures set forth in the EBT Working Group Report.

If any of the transactions described above are rejected by the Distribution Company, the Distribution Company shall send an "error" transaction to the Competitive Supplier identifying the reason for the rejection, in accordance with the rules and procedures set forth in the EBT Working Group Report.

5E. Fees

The Company may charge fees to Competitive Supplier for processing the transactions described above, as approved by the MDTE. These fees are included in Appendix A.

6. Distribution Service Interruption

6A. Planned Outages

In the event that the loading of the Distribution System, or a portion thereof, must be reduced for safe and reliable operation, such reduction in loading shall be proportionately allocated among all Customers whose load contributes to the need for the reduction, when such proportional curtailments can be accommodated within good utility practices.

6B. Unplanned Outages

In the event of unplanned outages, service will be restored in accordance with good utility practice. When appropriate, service restoration shall be accomplished in accordance with the Company System Storm Emergency Plan on file with the MDTE.

6C. Disconnection of Service

The Distribution Company may discontinue Distribution Service to a Customer in accordance with the provisions set forth in the Terms and Conditions for Distribution Service. The Company shall provide electronic notification to the Customer's Competitive Supplier of record two (2) business days prior to disconnection. Once disconnection occurs, the provision of Generation Service to the Customer is no longer the obligation of the Competitive Supplier. The Company shall not be liable for any revenue losses to the Competitive Supplier as a result of any such disconnection.

7. Metering

7A. Meter Reading

The Company shall meter each Customer in accordance with tariff provisions. Upon request by a Competitive Supplier, the Company shall schedule meter reads on a monthly cycle.

Each Customer shall be metered such that the loads can be reported to the ISO-NE for inclusion in the Competitive Supplier’s, or the Competitive Supplier’s wholesale provider’s, Own-Load Calculation.

7B. Ownership of Metering Equipment

Should a Customer or Competitive Supplier a request a new meter or that a communication device be attached to the existing meter, the Company shall provide, install, test, and maintain the requested metering or communication device. The requested meter or communication device must meet the Company's requirements. The Customer or Competitive Supplier shall bear the cost of providing and installing the meter or communication device. Upon installation, the meter or communication device shall become the property of the Company and will be maintained by the Company. The Company shall complete installation of the meter or communication device, if reasonably possible, within thirty (30) days of receiving a written request from the Customer or Competitive Supplier. The Company shall bill the Customer or Competitive Supplier upon installation.

8. Billing

The Company shall provide a single bill, reflecting unbundled charges for electric service, to Customers who receive Standard Offer Service or Default Service.

The Company shall offer two billing service options to Customers receiving Generation Service from Competitive Suppliers: (1) Standard Complete Billing Service; and (2) Standard Passthrough Billing Service. The Competitive Supplier shall inform the Distribution Company of the selected billing option, in accordance with the rules and procedures set forth in the EBT Working Group Report.

8A. Standard Passthrough Billing Service

The Company shall issue a bill for Distribution Service to each Customer. The Competitive Supplier shall be responsible for separately billing Customers for the cost of Generation Service provided by the Competitive Supplier and for the collection of amounts due to the Competitive Supplier from the Customer.

The Company shall send a "customer usage information" transaction to the Competitive Supplier, in accordance with the rules and procedures set forth in the EBT Working Group Report.

8B. Standard Complete Billing Service

1. Billing Procedure

The Company shall issue a single bill for electric service to each Customer.

The Company shall use the rates supplied by the Competitive Supplier to calculate the Competitive Supplier portion of Customer bills, and integrate this billing with its own billing in a single mailing to the Customer. The Company shall send a "customer usage and billing information" transaction to the Competitive Supplier, in accordance with the rules and procedures set forth in the EBT Working Group Report.

Upon receipt of Customer payments, the Company shall send a "payment/adjustment" transaction to the Competitive Supplier, in accordance with the rules and procedures set forth in the EBT Working Group Report. Customer revenue due the Competitive Supplier shall be transferred to the Competitive Supplier in accordance with the service contract entered into by the Competitive Supplier and the Company.

If a Customer pays the Company less than the full amount billed, the Company shall apply the payment first to Distribution Service and, if any payment remains, it shall be applied to Generation Service.

2. Changes to Rate Classes

If a Competitive Supplier requests different customer classes or rate structures than are offered by the Company, the Company shall accommodate changes to the billing system, if reasonably possible, at the Competitive Supplier's expense. The costs of making the designated changes shall be quoted by the Company to the Competitive Supplier prior to the start of programming.

3. Optional Customer Services

Upon request by a Competitive Supplier, the Company may offer optional customer services to those Competitive Suppliers who receive Standard Complete Billing Service. Pricing for these optional services shall be customized to the Competitive Supplier's needs, and shall be dependent on the specific customer services required by the Competitive Supplier, the volume of Customer calls, requested coverage hours, and/or the specific number of customer service representatives requested.

4. Summary Billing

The Company may offer a Summary Billing option for Competitive Suppliers who have qualified Customers with multiple electric service accounts. Designed to consolidate multiple individual billings on a single bill format, this optional service allows Customers to pay multiple accounts with one check.

5. Existing Fees

Existing Company service fees, such as interest charges for unpaid balances and bad check charges, shall remain in effect and shall be assessed, as applicable, according to the Company's Terms and Conditions for Distribution Service, applicable to all Customers.

8C. Definition of Standard Units of Service

1. Billing Demand

Units of billing demand shall be as defined in the Company's applicable tariffs on file with the MDTE.

2. On-Peak/Off-Peak Period Definitions

The on-peak and off-peak periods shall be as defined in the Company's applicable tariffs on file with the MDTE.

Competitive Suppliers may define on-peak and off-peak periods differently from those above; however, they will be required to make special metering arrangements with the Company to reflect different on-peak and off-peak definitions. Any costs incurred to provide the special metering arrangements shall be assigned to the Competitive Supplier.

8D. Fees

The Company may charge fees to Competitive Suppliers for providing the services described in this section of the Terms and Conditions, as approved by the MDTE. These fees are included in Appendix A.

9. Determination of Hourly Loads

9A. For each Competitive Supplier, hourly loads for each day shall be estimated or telemetered and reported daily to the ISO-NE for inclusion in the Competitive Supplier's Own-Load Calculation. Hourly load estimates for non-telemetered customers will be based upon load profiles developed for each customer class or Customer of the

Company. The total hourly loads will be determined in accordance with the appropriate hourly load for the Company.

9B. The Company shall normally report previous days' hourly loads to the ISO-NE by a specified time. These loads shall be included in the Competitive Supplier's Own Load Calculation.

9C. To refine the estimates of the Competitive Suppliers' loads that result from the estimated hourly loads, a monthly calculation shall be performed to incorporate the most recent customer usage information, which is available after the monthly meter readings are processed.

9D. The hourly loads shall be determined consistent with the following steps:

(1) The Company shall identify or develop a load profile for each customer class or each Customer for use in each day's daily determination of hourly load.

(2) The Company shall calculate a usage factor for each Customer that reflects the Customer's relative usage level.

(3) The Company shall develop estimates of hourly load profiles for the previous day for each Competitive Supplier such that the sum of the Competitive Suppliers' loads equals the hourly metered loads collected each day. Distribution losses, which are included in the hourly metered Company loads, shall be fully allocated into Competitive Supplier loads.

(4) Transmission losses from local network facilities shall be approximated and added to the Competitive Supplier's hourly loads.

9E. The process of Competitive Supplier load estimation involves statistical samples and estimating error. The Distribution Company shall not be responsible for any estimating errors and shall not be liable to the Competitive Supplier for any costs that are associated with such estimating errors.

10. Liability and Indemnification

The liability of the Competitive Supplier to the Customer shall be as set forth in the specific Customer/Competitive Supplier Contract.

Except as provided in § 9E of the Model Terms and Conditions, the Company and the Competitive Supplier shall indemnify and hold the other and their respective affiliates, and the directors, officers, employees, and agents of each of them (collectively, "Affiliates") harmless from and against any and all damages, costs (including attorneys' fees), fines, penalties, and

liabilities, in tort, contract, or otherwise (collectively, "Liabilities"), resulting from claims of third parties arising, or claimed to have arisen, from the acts or omissions of such party in connection with the performance of its obligations under these Terms and Conditions. The Company and the Competitive Supplier shall waive recourse against the other party and its Affiliates for or arising from the non-negligent performance by such other party in connection with the performance of its obligations under these Terms and Conditions.

Att. III: MODEL TARIFF FOR STANDARD OFFER SERVICE

1. General

This Tariff may be revised, amended, supplemented or supplanted in whole or in part from time to time according to the procedures provided in MDTE regulations and Massachusetts law. In case of conflict between this Tariff and any orders or regulations of the MDTE, said orders or regulations shall govern.

2. Definitions

"Competitive Supplier" shall mean any entity licensed by the MDTE to sell electricity to retail Customers in Massachusetts, with the following exceptions: (1) a Distribution Company providing Standard Offer Service and Default Service to its distribution Customers, and (2) a municipal light department that is acting as a Distribution Company.

"Customer" shall mean any person, partnership, corporation, or any other entity, whether public or private, who obtains Distribution Service at a Customer Delivery Point and who is a Customer of record of the Company.

"Customer Delivery Point" shall mean the Company's meter or a point designated by the Company located on the Customer's premises.

"Default Service" shall mean the service provided by the Distribution Company to a Customer who is not receiving either Generation Service from a Competitive Supplier or Standard Offer Service, in accordance with the provisions set forth in the Company's Default Service tariff, on file with the MDTE.

"Distribution Company" or "Company" shall mean an electric company organized under the laws of Massachusetts that provides Distribution Service in Massachusetts.

"Distribution Service" shall mean the delivery of electricity to Customers by the Distribution Company.

"Generation Service" shall mean the sale of electricity, including ancillary services such as the provision of reserves, to a Customer by a Competitive Supplier.

"Low-income Customer" shall mean a Customer who meets the low-income eligibility qualifications approved by the MDTE for the Distribution Company.

"MDTE" shall mean the Massachusetts Department of Telecommunications and Energy.

"Retail Access Date" shall mean March 1, 1998, unless otherwise determined by the MDTE.

"Standard Offer Service" shall mean the service provided by the Distribution Company for a term of seven years after the Retail Access Date, unless otherwise determined by the MDTE. The rates for this service shall be set at levels that achieve the overall Customer rate reductions required by G.L. c. 164, § 1B. Availability for this service shall be in accordance with the with the provisions set forth in this tariff.

"Standard Offer Service" shall mean the service provided by the Distribution Company to a Customer who is not receiving either Generation Service from a Competitive Supplier or Default Service, in accordance with the provisions set forth in this tariff.

3. Term

Standard Offer Service shall be available for seven years after the Retail Access Date, unless otherwise approved by the Department.

4. Availability

4A. Standard Offer Service shall be available to each Customer who was a Customer of Record as of the Retail Access Date and who has not received Generation Service from a Competitive Supplier since the Retail Access Date.

4B. A Customer receiving Standard Offer Service shall be allowed to retain such service upon moving within the service territory of the Distribution Company.

4C. A Customer who has previously received Generation Service from a Competitive Supplier is no longer eligible to receive Standard Offer Service, except that a Low-income Customer may return to Standard Offer Service at any time, regardless of whether the Customer has previously received Generation Service from a Competitive Supplier. In addition, a residential or small commercial and industrial Customer who has received Generation Service from a Competitive Supplier since the Retail Access Date is eligible to receive Standard Offer Service by so notifying the Distribution Company within one-hundred and twenty days (120) days of the date when the Customer first began to receive Generation Service from a Competitive Supplier, provided that such notification occurs during the first year following the Retail Access Date. There shall be no fee for returning to Standard Offer Service.

4D. A Customer who moves into the Company's service territory after the Retail Access Date is not eligible to receive Standard Offer Service, except that a Low-income Customer who moves into the Company's service territory after the Retail Access Date shall be eligible for Standard Offer Service.

5. Rates

The initial rate for Standard Offer Service shall be set so that, when considered in conjunction with Customers' transmission, distribution and transition charges, Customers' average rates are reduced by at least ten (10) percent from 1997 average rates, as determined by the MDTE.

As of March 1, 1999, the rate for Standard Offer Generation Service shall be set so that, when considered in conjunction with Customers' transmission, distribution and transition charges, Customers' average rates shall increase by no more than the rate of inflation, as determined by the MDTE.

As of September 1, 1999, the rate for Standard Offer Generation Service shall be set so that, when considered in conjunction with Customers' transmission, distribution and transition charges, Customers' average rates are reduced by at least 15 percent from 1997 average rates, as adjusted for inflation.

6. Billing

Each Customer receiving Standard Offer Service shall receive one bill from the Company, reflecting unbundled charges for their electric service.

7. Termination of Standard Offer Service

Standard Offer Service may be terminated by a Customer concurrent with the Customer's next scheduled meter read date provided that notice of initiation of Generation Service by a Competitive Supplier is received by the Company two (2) or more business days before the next scheduled meter read date, in accordance with the Company's Terms and Conditions for Competitive Suppliers.

If the notice of initiation of Generation Service by the Competitive Supplier is received by the Company fewer than two days before the Customer's next scheduled meter read date, Standard Offer Service shall be terminated concurrent with the Customer's subsequent scheduled meter read date.

There shall be no fee for terminating Standard Offer Service.

Att. IV: MODEL TARIFF FOR DEFAULT SERVICE

1. General

This Tariff may be revised, amended, supplemented or supplanted in whole or in part from time to time according to the procedures provided in MDTE regulations and Massachusetts law. In case of conflict between this Tariff and any orders or regulations of the MDTE, said orders or regulations shall govern.

2. Definitions

"Competitive Supplier" shall mean any entity licensed by the MDTE to sell electricity to retail Customers in Massachusetts, with the following exceptions: (1) a Distribution Company providing Standard Offer Service and Default Service to its distribution Customers, and (2) a municipal light department that is acting as a Distribution Company.

"Customer" shall mean any person, partnership, corporation, or any other entity, whether public or private, who obtains Distribution Service at a Customer Delivery Point and who is a Customer of record of the Company.

"Customer Delivery Point" shall mean the Company's meter or a point designated by the Company located on the Customer's premises.

"Default Service" shall mean the service provided by the Distribution Company to a Customer who is not receiving either Generation Service from a Competitive Supplier or Standard Offer Service, in accordance with the provisions set forth in this tariff.

"Distribution Company" or "Company" shall mean an electric company organized under the laws of Massachusetts that provides Distribution Service in Massachusetts.

"Distribution Service" shall mean the delivery of electricity to Customers by the Distribution Company.

"Generation Service" shall mean the sale of electricity, including ancillary services such as the provision of reserves, to a Customer by a Competitive Supplier.

"MDTE" shall mean the Massachusetts Department of Telecommunications and Energy.

"Retail Access Date" shall mean March 1, 1998, unless otherwise determined by the MDTE.

"Standard Offer Service" shall mean the service provided by the Distribution Company for a term of seven years after the Retail Access Date, unless otherwise determined by the MDTE.

The rates for this service shall be set at levels that achieve the overall Customer rate reductions required by St. 1997, c. 164, § 193 (G.L. c. 164, § 1B). Availability for this service shall be in accordance with the with the provisions set forth in the Company's Standard Offer Service tariff, on file with the MDTE.

3. Availability

Default Service shall be available to any Customer who is not receiving Standard Offer Service and who, for any reason, has stopped receiving Generation Service from a Competitive Supplier.

4. Rates

The rates for Default Service shall be as established through a competitive bidding process, but in no case shall exceed the average monthly market price for electricity, as determined by the MDTE.

5. Billing

Each Customer receiving Default Service shall receive one bill from the Company, reflecting unbundled charges for their electric service.

6. Initiation of Default Service

Default service may be initiated in any of the following manners:

a. A Customer who is receiving Generation Service from a Competitive Supplier notifies the Distribution Company that he wishes to terminate such service and receive Default Service. In this instance, Default Service shall be initiated within two (2) business of such notification for residential Customers. For other Customers, Default Service shall be initiated concurrent with the Customer's next scheduled meter read date, provided that the Customer has provided such notification to the Company two (2) or more business days before the next scheduled meter read date, in accordance with the Company's Terms and Conditions for Competitive Suppliers. If the Customer provided such notification fewer than two (2) days before the Customer's next scheduled meter read date, Default Service shall be initiated concurrent with the Customer's subsequent scheduled meter read date;

b. A Competitive Supplier notifies the Distribution Company that it shall terminate Generation Service to a Customer. In this instance, Default Service shall be initiated for the Customer concurrent with the Customer's next scheduled meter

read date, provided that the notice of termination of Generation Service is received by the Company two (2) or more business days before the next scheduled meter read date, in accordance with the Company's Terms and Conditions for Competitive Suppliers. If the notice of termination is received fewer than two (2) days before the Customer's next scheduled meter read date, Default Service shall be initiated concurrent with the Customer's subsequent scheduled meter read date;

c. A Competitive Supplier ceases to provide Generation Service to a Customer, without notification to the Distribution Company. In this instance, Default Service to the Customer shall be initiated immediately upon the cessation of Generation Service;

d. A Customer taking Standard Offer Service has not chosen affirmatively a Competitive Supplier at the end of the term of Standard Offer Service.

7. Termination of Default Service

Default Service may be terminated by a Customer concurrent with the Customer's next scheduled meter read date provided that notice of initiation of Generation Service by a Competitive Supplier is received by the Company two (2) or more business days before the next scheduled meter read date, in accordance with the Company's Terms and Conditions for Competitive Suppliers.

If the notice of initiation of Generation Service by the Competitive Supplier is received by the Company fewer than two days before the Customer's next scheduled meter read date, Default Service shall be terminated concurrent with the Customer's subsequent scheduled meter read date.

There shall be no fee for terminating Default Service.